



**SPECIAL MEETING AGENDA**

**Date:** 11/29/2017  
**Time:** 6:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

**6:00 p.m. Closed Session (City Hall/Administration Building, 1st Floor Conference Room)**

Public comment on these items will be taken before adjourning to Closed Session.

**CL1.** Closed session conference with legal counsel on anticipated litigation pursuant to Government Code §54956.9(d)(2) – one case

Attendees: City Manager Alex McIntyre, City Attorney Bill McClure, Assistant City Manager Charles Taylor

**CL2.** Closed session conference with legal counsel pursuant to Government Code section 54956.9 (d)(1) regarding existing litigation: 1 case - City of East Palo Alto v. City of Menlo Park et al., San Mateo County Superior Court Case No. 16CIV03062

Attendees: City Manager Alex McIntyre, City Attorney Bill McClure, Assistant City Manager Charles Taylor

**7:00 p.m. Regular Session (City Council Chambers)**

- A. Call To Order**
- B. Roll Call**
- C. Pledge of Allegiance**
- D. Report from Closed Session**

Report on action taken in Closed Session, if required, pursuant to Government Code §54957.1

**E. Public Comment**

Under “Public Comment,” the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City Council once under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

**F. Public Hearing**

- F1. Public Hearing to consider establishing a districting committee and to receive community input regarding district boundaries for district based elections pursuant to Elections Code Section 10010 (Staff Report #17-287-CC)

**G. Regular Business**

- G1. Consider appealing the Santa Clara Council Planning Commission approvals for the Center for Academic Medicine (Staff Report #17-291-CC)
- G2. Approve a comment letter on the Draft Environmental Impact Report for the Stanford University 2018 General Use Permit Project (Staff Report #17-288-CC)

**H. Informational Items**

- H1. Update on bus shelter installations in Belle Haven (Staff Report #17-290-CC)
- H2. Update on Willow Road/U.S. 101 intersection construction (Staff Report #17-289-CC)

**I. City Manager's Report**

**J. Councilmember Reports**

**K. Adjournment**

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At every Regular Meeting of the City Council, in addition to the Public Comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Chair, either before or during the City Council's consideration of the item.

At every Special Meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Chair, either before or during consideration of the item.

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## STAFF REPORT

### City Council

Meeting Date:

11/29/2017

Staff Report Number:

17-287-CC

Public Hearing:

**Public Hearing to consider establishing a districting committee and to receive community input regarding district boundaries for district based elections pursuant to Elections Code Section 10010**

### Recommendation

Staff recommends that the City Council:

1. Review the website district mapping tool and provide input for public engagement;
2. Conduct a public hearing to solicit community input on boundaries and composition of election districts;
3. Consider adopting a resolution establishing a districting committee (Attachment E) and discuss qualifications and appointment procedure; and
4. Provide direction on whether to appoint a charter commission.

### Policy Issues

On October 4, 2017, the City Council adopted a resolution declaring its Intent to transition from at-large to by-district councilmember elections under Elections Code § 10010. In addition, the City Council expressed its desire to examine other types of voting systems and to authorize the City Manager and City Attorney to hire a demographer. This decision was prompted by a recent allegation by an attorney on behalf of residents in the Belle Haven neighborhood that the City's current at-large election system violated the California Voting Rights Act ("CVRA"). The CVRA was adopted to address racially polarized voting in at large elections. Almost all cities facing CVRA claims have settled out of court by voluntarily shifting to district-based elections.

Last year, the Legislature approved a series of bills to make it easier for local governments to transition from at-large to district-based elections. As directed by the City Council, the City has retained a demographer, National Demographics Corporation, to assist the City in exploring different election types and transitioning to districts. This new "safe harbor" legislation provides a transition timeline and if followed insulates the City from litigation and caps attorney fee liability. This public hearing is the first step of the statutorily authorized timeline.

### Background

On August 21, 2017, the City received a letter from Kevin Shenkman of Shenkman & Hughes ("Shenkman Letter"). A copy of the letter is included as Attachment A. It alleges that voting within the City is racially polarized, resulting in minority vote dilution and that the City's at-large elections violate the CVRA. Specifically, the letter alleges that, "Menlo Park's at-large system dilutes the ability of Latinos and African-American (each a 'protected class') to elect candidates of their choice or otherwise influence the outcome of Menlo Park's city council elections." The Shenkman Letter makes the following claims to support this allegation: (1) The 2016 election, whereby Cecilia Taylor, an African-American woman from Belle Haven,

ran for City Council and lost, despite being preferred by Latino and African-American voters; and (2) No Latinos have ever run for City Council. The City has not confirmed whether these statements are accurate. The Shenkman Letter closes with a demand that the City advise Mr. Shenkman by no later than October 3, 2017, as to whether it would like to discuss voluntary change to the City’s current at-large system. [Note the 45-day period expired October 5, 2017, not October 3, 2017.]

On October 4, 2017, the City Council conducted a hearing to consider whether to explore transitioning from at-large to by-district elections. The City Council voted 5-0 to adopt a Resolution of Intent to Transition to By-District elections. The City Council also expressed a desire to consider other types of voting systems and directed staff to hire National Demographics Corporation to assist in the transition process. Of the approximate 195 jurisdictions that have transitioned to district elections because of the CVRA, National Demographics Corporation has assisted 104 of them, including 24 of the 28 cities and 69 school districts. National Demographics Corporation’s client list is included as Attachment B.

On October 30, 2017, the City Council conducted a public hearing to solicit community input on district formation. At that meeting, the City Council directed National Demographics Corporation to prepare mapping tools to allow residents to draw five or six districts. These mapping tools will be available on the District Elections webpage of the city website at [menlopark.org/districtelections](http://menlopark.org/districtelections).

*Menlo Park Elections and 1990, 2000 and 2010 Census Data*

The City of Menlo Park utilizes an at-large election system with a rotating mayor. This means that the electors from the entire city choose each of the five (5) councilmembers and the mayor is chosen among the councilmembers by vote of the City Council on a rotating basis. Elections are held every other year in even numbered years. On a staggered schedule, three seats are filled in one election cycle and the remaining two seats are filled in the next cycle. There is no limit to the number of terms that a councilmember may serve.

The census data for Menlo Park breaks down the population percentage based on ethnicities for the city as a whole, and includes a breakdown by census tract. The major race and ethnicity for the city as a whole and for the Belle Haven neighborhood are listed below. [We have only provided data (Attachment C) for the Belle Haven neighborhood because the allegations of racially polarized voting are only applicable to that neighborhood.] Note that the sum of the demographic categories exceeds 100 percent and the sum of the population numbers exceeds actual total population because the census data classifies Hispanic or Latino as an ethnicity, not race. Therefore, those that identify as Hispanic or Latino, also identify as a race. For example, a person that represents themselves as white on census data, may also identify himself or herself as Hispanic or Latino.

Percentage breakdown by Race and Ethnicity for the entire city						
	1990 Census data		2000 Census data		2010 Census data	
Total City Population	28,040		30,785		32,026	
White	22,176	79.1%	22,274	72.4%	22,194	70.2%
Black or African-American	3,467	12.4%	2,163	7%	1,551	4.8%
Asian (1990 Census combined Asian and Pacific Islander)	1,668	5.9%	2,201	7.1%	3,157	9.9%
Hispanic or Latino	2,710	9.7%	4,803	15.6%	5,902	18.4%

Percentage breakdown by Race and Ethnicity for the Belle Haven Neighborhood (Census Tract 6117)						
	1990 Census data		2000 Census data		2010 Census data	
Total Belle Haven Population	5,127		6,095		5,970	
White	1,429	27.9%	1,253	20.6%	1,727	28.9%
Black or African-American	2,991	58.3%	1,828	30%	1,130	18.9%
Asian (1990 Census combined Asian and Pacific Islander)	57	1.1%	39	0.6%	167	2.8%
Hispanic or Latino	1,691	33%	3,653	60%	4,095	68.6%

Over the years, the City has had City Council candidates and elected councilmembers who identify as a minority race or ethnicity. For example, Billy Ray White, an African-American, ran for City Council and won as the highest vote-getter in 1982 and won in 1978. In fact, he was reported to be the first African-American Mayor on the Peninsula and resided in the Belle Haven neighborhood. Other minority candidates and councilmembers are described in more detail in the earlier October 4, 2017, staff report.

*The California Voting Rights Act*

The CVRA was signed into law in 2002 with an effective date of January 1, 2003. It was specifically enacted to eliminate several key burden of proof requirements that exist under the Federal Voting Rights Act of 1965 (“FVRA”)<sup>1</sup> after several jurisdictions in California successfully defended themselves in litigation brought under the FVRA. The CVRA made fundamental changes to minority voting rights in California, making it easier for plaintiffs in California to challenge the at-large voting system employed by many local jurisdictions resulting in dilution of voting power for minority groups. In 2016 (effective January 1, 2017), the CVRA was amended to provide a safe harbor against a CVRA lawsuit (“Safe Harbor”). The Safe Harbor provisions place certain additional requirements on potential plaintiffs before filing a CVRA lawsuit.<sup>2</sup>

1. Recent constitutional challenge to the CVRA

Given the significant cost of defending a CVRA claim, most cities have elected not to fight the claim. We are aware of a few cities, however, who are or plan to challenge the claims. Santa Monica is currently in litigation over its decision to retain its at large voting system. Glendale and Huntington Beach have both announced \$4 million budgets for legal defense of their current at large systems. In addition, the former Poway Mayor recently filed a lawsuit in San Diego federal court seeking to invalidate the CVRA on the grounds that it unconstitutionally makes race the only factor in redistricting.<sup>3</sup> This action seeks a statewide injunction against enforcement of the CVRA. We will continue to monitor this case and any related appeals.

2. *Establishing CVRA Violation*

The CVRA does not require proof of intent on the part of the voters or elected officials to discriminate against a protected class.<sup>4</sup> Also, unlike federal law, the CVRA does not require a showing that members of

<sup>1</sup> 52 USC § 10301 *et seq.*

<sup>2</sup> See, Elections Code § 10010(e)

<sup>3</sup> *Higginson v. Becerra*, Case No. 3:17-cv-02032.

<sup>4</sup> Elections Code § 14027

a protected class live in a geographically compact area.<sup>5</sup> This means that a CVRA claim can be established in many cities with a large minority of protected class residents.<sup>6</sup>

In order to prevail in a suit brought for a violation of the CVRA, the plaintiff must show evidence of “racially polarized voting” within the jurisdiction. According to the CVRA, “racially polarized” voting is determined:

“...from examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class. One circumstance that may be considered in determining a violation of [Section 14027](#) and this section is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision that is the subject of an action based on [Section 14027](#) and this section. In multiseat at-large election districts, where the number of candidates who are members of a protected class is fewer than the number of seats available, the relative groupwide support received by candidates from members of a protected class shall be the basis for the racial polarization analysis.”<sup>7</sup>

There are only two published California cases analyzing the CVRA. In *City of Modesto*, the Court explained that, “the CVRA does not require that the plaintiff prove a ‘compact majority-minority’ district is possible for *liability* purposes.”<sup>8</sup> “The CVRA provides a private right of action to members of a protected class where, because of ‘dilution or the abridgement of the rights of voters,’ an at-large election system ‘impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election....’”<sup>9</sup> Courts have used a variety of factors in considering whether the plaintiff has established a violation of the CVRA, including: voting patterns correlate with the race of the voter, minority-preferred candidates are not elected, and the extent to which members of a protected class bear the effects of past discrimination such as education, employment and health, which hinder their ability to participate effectively in the political process. Proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required.<sup>10</sup>

In *City of Palmdale*, the trial court ruled that Plaintiff’s evidence established racially polarized voting occurred in the city council elections.<sup>11</sup> This part of the trial court’s decision was not challenged on appeal and thus not analyzed on appeal. The trial court found that: “The failure of minority candidates to be elected to office does not by itself establish the presence of racially polarized voting, [but] the regression analysis undertaken by both experts nevertheless established a clear history of a difference between choice of candidates preferred by the protected class in the choice of the non-protected class.”<sup>12</sup>

### 3. CVRA Remedies

The Courts’ remedial powers under the CVRA are extremely broad, and specifically include the power to implement “appropriate remedies,” including court ordered “imposition” of by district elections.<sup>13</sup> The CVRA

<sup>5</sup> Elections Code § 14025(c); *Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660, 667

<sup>6</sup> According to the 2010 Census, 18.4% of the City’s residents are Hispanic or Latino and 4.8% are Black or African American.

<sup>7</sup> Elections Code § 14028(b)

<sup>8</sup> *City of Modesto*, 145 Cal.App. 4th at 669

<sup>9</sup> *Id.* at 667, *citing* Elec. Code § 14027, 14032

<sup>10</sup> Elections Code § 14028(d)

<sup>11</sup> *City of Palmdale*, 226 Cal.App.4th at 791

<sup>12</sup> *Id.* at 790

<sup>13</sup> Elections Code §14029

also allows a prevailing plaintiff to recover attorney's fees and litigation expenses, including, but not limited to, expert witness fees and expenses.<sup>14</sup>

Numerous CVRA cases have been litigated and/or settled by cities. Virtually every settlement involves the city changing from an at large voting system to by district elections and payment of substantial attorney's fees. One city, Santa Clarita, agreed in its settlement to change to cumulative voting, but that settlement fell apart when the Court found that general law cities cannot convert to cumulative voting.

#### 4. Post 2016 CVRA Reform

In 2016, the Legislature adopted two key bills designed to encourage the transition from at large to by district voting.

##### a. *AB 2220- Adoption of Ordinance Requiring Election By District*

Effective January 1, 2017, the legislative body of a city may voluntarily switch from an at-large elections system by adopting an ordinance that requires members of the legislative body to be elected by district or by district with an elective mayor, without being required to submit the ordinance to the voters for approval.<sup>15</sup> Prior law limited this procedure to cities having populations of less than 100,000. To take advantage of this streamlined approach, the City Council adopted ordinance must include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the CVRA.<sup>16</sup>

##### b. *Assembly Bill 350 a "Safe Harbor"*

In addition, effective January 1, 2017, the Legislature added a safe harbor provision to the CVRA which insulates the City from litigation if it follows a prescribed process and timeline for converting to "by district" elections. The safe harbor requires a prospective plaintiff to send notice to a city alleging a CVRA violation, before that prospective plaintiff may file a CVRA lawsuit against the City.<sup>17</sup> Then, the prospective plaintiff may not file a lawsuit until forty-five (45) days after a city received the letter, and may only file if the city does not adopt a resolution declaring the city council's intent to transition from at-large elections to district-based elections within that time.<sup>18</sup>

If a Resolution of Intention is adopted pursuant to the requirements of Elections Code § 10010 (e)(3)(A), a prospective plaintiff may not commence an action within ninety (90) days of the Resolution of Intention's passage.<sup>19</sup> During the ninety (90) day period, a city must hold five (5) public hearings and at the last public hearing adopt an ordinance establishing district-based elections as required by Elections Code § 10010(a) in order to avoid a potential CVRA lawsuit. The public hearings give the community an opportunity to weigh in on the composition of the districts and to provide input regarding the content of the draft maps and the proposed sequence of elections. The first two public hearings give the public an opportunity to provide input regarding the composition of districts. These two hearings must be held within the span of no more than thirty (30) days. Subsequently, draft district maps will be drawn and two additional public hearings must be held within a span of no more than forty-five (45) days. The final public hearing will be held when the City Council votes to consider an ordinance establishing district-based elections.<sup>20</sup>

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<sup>14</sup> Elections Code §14030

<sup>15</sup> Gov't Code § 34886

<sup>16</sup> *Id.*

<sup>17</sup> Elections Code § 10010(e)(1)

<sup>18</sup> Elections Code §§ 10010(e)(2),(3)(A)

<sup>19</sup> Elections Code § 10010(e)(3)(B)

<sup>20</sup> Elections Code § 10010(a)

Within thirty (30) days of an ordinance's adoption, the potential plaintiff who sent the notice may demand reimbursement for costs of the work product generated to support the notice.<sup>21</sup> The city is then required to reimburse that potential plaintiff for reasonable costs claimed, which may not exceed \$30,000, within forty-five (45) days of receiving the written demand.<sup>22</sup>

By law, the terms of sitting councilmembers cannot be cut short. The City Council will have an opportunity to determine the number of districts to be formed and how their boundaries are defined. This will be decided by the City Council based on information from the initial public hearings as required by California Elections Code § 10010, and other appropriate considerations, should it adopt the proposed resolution.

The benefits of utilizing the safe harbor statutes are they allow elections to go to districts without a ballot measure, provide a defined process for making the switch and limit the amounts of costs and fees that cities would otherwise likely be assessed if the plaintiff prevails in the litigation. In addition, for proponents of district elections, it provides incentive for cities to make the switch more quickly than they otherwise might. Drawbacks to the Safe Harbor statutes include the short period of time to complete the process. This often does not leave enough time for a city to evaluate whether racially polarized voting actually exists.

## Analysis

### *District Boundary Criteria*

The purpose of this second public hearing is to inform the public about the districting process and hear from residents on factors they believe should be taken into consideration when creating new voting districts, including suggestions for drawing district boundary lines.

Certain legally required criteria apply to the creation of districts and must be observed. These are:

- Each City Council district shall contain a nearly equal population;
- A districting plan shall be drawn in a manner that complies with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution; and
- City Council districts shall not be drawn with race as the predominate factor.<sup>23</sup>

Additional criteria have been used by other communities when defining districts including topographical and geographical boundaries (major roads, freeways, creeks, railroad lines or other barriers) and communities of interest (school district boundaries, neighborhood boundaries, retail/commercial districts, voting precincts etc.).<sup>24</sup> At this meeting, the public is encouraged to provide further input on other criteria that should be considered. The City Council may choose to include some, all, or none of any additional criteria brought forth, or may choose to develop alternative criteria that the City Council believes are applicable to the City.

Note that if the City Council elects to transition to district elections, the districts are legally required to be updated after the next federal census data are published (due in 2021).<sup>25</sup>

### *Process for Establishing District Boundaries*

State law authorizes three different methods for establishing local voting districts: (1) the City Council may adopt districts by ordinance or resolution<sup>26</sup>; (2) the City Council may appoint an advisory board to

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<sup>21</sup> Elections Code § 10010(f)(1)

<sup>22</sup> Elections Code § 10010(f)(1-3)

<sup>23</sup> *Shaw v. Reno*, 509 U.S. 630 (1993)

<sup>24</sup> Elections Code Section 21601

<sup>25</sup> Elections Code 21601

<sup>26</sup> Elections Code Section 21601



recommend district boundaries<sup>27</sup> or (3) the City Council may establish an independent redistricting commission to determine districts.<sup>28</sup> Until 2017, general law cities were only able to utilize the first two methods. Effective January 1, 2017, SB 1108 now authorizes general law cities to appoint an independent redistricting committee. An independent districting committee has authority to adopt districts independent of the City Council. The criteria for establishing an advisory committee are similar to other local Boards and Commissions. Conversely, SB 1108 places significant limitations on who can serve on independent districting commissions. A chart comparing advisory and independent districting committees is included as Attachment D and a high-level summary is discussed below.

#### *Advisory Districting Committee*

The City Council may establish the appointment criteria and process for an advisory committee.<sup>29</sup> The only limitation is that a committee member may not be an elected official of the City or a family member, staff member or paid campaign staff of an elected city official.<sup>30</sup> Fourteen cities have recently used some form of advisory committee: Anaheim, Dinuba, Downey, Los Angeles, Menifee, Merced, Pasadena, Salinas, Sanger, San Jose, Seal Beach, Stockton, Watsonville and Woodland. The selection process for the advisory committee has ranged from City Council appointed, to random selection, to nominated by League of Women Voters and selected by the City Council. The committees have consisted of residents, political appointees and retired judges. The size has ranged from 5 (Anaheim) to 21 (City of Los Angeles).

#### *Independent Districting Committee*

For independent redistricting commissions, commissioners must be selected through an open application process and must meet more robust qualifications designed to ensure impartiality. The commission must hold at least three public hearings, abide by the Brown Act and public records laws, and cannot consider an incumbent or candidate's residence in drawing district boundaries. Commissioners' local political activity is limited while serving on the commission and, after their service, commissioners are prohibited from running for local office for 10 years. In addition, commissioners may not be appointed to a city board or commission for four years following service.<sup>31</sup> To date, eight cities and two counties have established independent redistricting commissions: Berkeley, Los Angeles County, Sacramento, San Francisco, Chula Vista, Modesto, San Diego, Escondido, Oakland and San Diego County.

#### *Process for Appointing Committee Members*

There are varieties of ways that commissioners are selected. The main models are described below:

- City Council Appointment  
Elected officials directly appoint commissioners. In some jurisdictions, each councilmember may appoint one member; in other jurisdictions, people apply to serve on the commission and the governing board collectively selects the commissions. In addition to opening the commission to all residents, the City Council may want to include one or more chairs of existing city commissions, such as the Planning Commission.
- Independent Appointment  
After an open application process, a selection body, which is independent of the governing board, appoints the commissioners. For example, in Escondido a panel of retired judges reviews applications and appoints commissioners. In San Francisco, the city's Elections Commission appoints a subset of the

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<sup>27</sup> Elections Code Section 23001

<sup>28</sup> *Id.*

<sup>29</sup> Elections Code Section 23002

<sup>30</sup> *Id.*

<sup>31</sup> Elections Code Section 23003

commissioners.

- Random Draw and Commission Appointment

After an open application process, an independent selection body removes ineligible applicants and creates a subpool of the most qualified candidates. A subset of commissioners is selected at random from that subpool. Those commissioners then select the final commissioners from the remaining applicants in the subpool. This method follows the model of the state Redistricting Commission and is intended to prevent the governing board from influencing who serves on the commission.

- Retired Judges

The commission is constituted entirely of retired judges who are selected by random draw. In its settlement of a CVRA lawsuit, the City of Santa Barbara agreed to have three retired state or federal judges draw a districting map, which would be in place from 2021 through 2031. Thereafter, the City Council would re-draw the map. Anaheim also used retired judges as part of a CVRA lawsuit settlement. Unlike the other commissions, above, this model prioritizes the impartiality and technical skill of judges over creating a more representative citizen body.

Some ordinances require or encourage geographic or ethnic diversity on the commission. Many ordinances require prospective commissioners to meet certain eligibility qualifications, generally to ensure their political independence from incumbent officeholders. For example, incumbents and recent candidates for political office, as well as their family members and employees, are often prohibited from serving on the commission.

Given the tight timeframe of the “safe harbor” statutes, it does not appear an independent districting committee would be feasible. Also given the stringent post-service restrictions, it might be difficult to recruit independent committee members, especially from the Belle Haven community where civic engagement tends to be lower. If the City Council elects to appoint an Advisory committee, one approach would be to appoint the Chairs of the Planning Commission and Housing Commission, appoint one Belle Haven resident (the neighborhood subject of the CVRA challenge) and appoint two or more residents preferably from geographically diverse areas of the City. Staff recommends the recruitment be issued in early December, the appointments made in early January 2018 and the committee recommendations presented to the City Council in mid-February 2018. A draft resolution appointing a limited duration advisory committee is included as Attachment E for the City Council’s consideration.

### *Election Sequencing*

The City Council must also establish an election sequence schedule to accommodate the transition to district elections. Menlo Park conducts staggered elections every two years with two councilmembers elected in one election cycle and three councilmembers elected in the next election cycle.

The district election sequence will be dependent on a number of factors, including the number of districts, how many incumbents are located in each district, and the incumbents’ existing terms. State law does not prescribe the method for election sequencing when transitioning to district elections. However, under State law, the City Council may not cut any sitting councilmember’s term short, must give special consideration to the purposes of the CVRA and must take into account preferences expressed by members of the districts.<sup>32</sup>

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<sup>32</sup> Elections Code 10010 (b).

In the past, National Demographics Corporation has utilized the following sequencing criteria:

- First, for districts with one or more councilmembers, the election year is matched to the same year as a majority of the resident councilmembers' term expiration.
- Second, for districts with no resident councilmembers and for districts with multiple resident councilmembers where no majority election cycle exists, two election cycle options are provided. The election cycles are then assigned either by choice or by random draw.
- When two election cycle options are provided, consideration may be given to various factors such as newly annexed areas or incumbents' future plans (to move, not seek re-election, etc.).
- National Demographics Corporation recommends against randomly assigning **all** districts because voters could be denied the opportunity to re-elect the people's elected leader if the leader's term expires two years before the district's election cycle.

If the City Council chooses to have an at large elected mayor, it must decide whether the term should be two or four years.<sup>33</sup>

#### *Adopting a Limited Charter to Permit Different Election Systems*

The City Council has also expressed interest in pursuing a limited charter that would allow more flexibility in selecting an election system. General Law cities have authority to conduct at large, from district or by district elections; however, they are currently restricted from conducting cumulative or ranked choice voting elections or a hybrid at large/by district. Recent legislative efforts to expand this authority have been unsuccessful with the Governor recently vetoing SB 1288, which would have authorized general law cities to utilize ranked voting. Thus, the only way to implement Ranked Choice/Cumulative voting or a hybrid at large/by district process would be for Menlo Park to become a charter city. However, this process could not be implemented in time for the November 2018 election and would thus not provide immunity from a CVRA lawsuit.

There are two ways to draft a charter: (1) the City Council drafts the charter<sup>34</sup> or (2) the city's voters elect a charter commission who takes responsibility for drafting the charter.<sup>35</sup> Once the charter is drafted, it must be ratified by a majority vote of the city's voters. SB 311, effective January 1, 2014, mandates that new city charters be voted on in the November general election (i.e., even numbered years). Previously, charters could be voted on in June primary elections, general elections or regularly scheduled municipal elections.<sup>36</sup>

The process for the City Council drafting the charter is similar to drafting an ordinance, however it requires voter approval. Like other legislative actions, the City Council may also appoint an advisory committee to recommend charter provisions.

#### *Process for Establishing an Elected Charter Commission*

As an alternative to an advisory commission or City Council drafted charter, the Government Code authorizes an elected charter commission to discuss and draft a charter. To form an elected commission, the City Council must place a two-part question on the ballot. The first question must ask the voters "Shall a charter commission be elected to propose a new charter?" The second part asks the voters to select 15 candidates for the commission.<sup>37</sup> State law requires a Charter Commission to consist of 15 members and these members must be nominated through a process similar to councilmembers (i.e., to qualify for the

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<sup>33</sup> Cal. Gov't Code § 34900

<sup>34</sup> Cal. Gov't Code § 34458

<sup>35</sup> Cal. Gov't Code § 34451

<sup>36</sup> Elections Code §1415

<sup>37</sup> Cal. Gov't Code § 34453

ballot, commission candidates must collect the signatures of 3 percent of the registered voters).<sup>38</sup> Commissioners must be residents of Menlo Park, but are not required to live in any particular district or neighborhood.

If the first question passes with a majority vote, the 15 candidates for the office of charter commissioner receiving the highest number of votes are elected. However, if the first question receives less than a majority vote, the charter commission formation also fails. If the commission is elected it has two years to propose a new charter. Once a majority of the elected commissioners proposes a charter, it must be submitted to the voters. The commission's proposals are effective only upon adoption by a majority of the voters who vote on them and the subsequent filing of the proposals with the California Secretary of State.

In terms of election timing, the election of the commissioners can occur at any established election date.<sup>39</sup> As mentioned above, the election on the new charter itself must be at a general statewide election (i.e., November of even numbered years).

Under this State law scheme for establishing an independent elected charter commission, it is not possible to limit the commission's purview to a limited election charter. Given the broad purview of the Commission, it would be necessary to provide significant staff and legal resources to the elected charter commission.

In staff's opinion, the statutory requirements for an independent 15-member charter committee are unwieldy and not suited for the limited purpose charter being proposed. Also, it should be noted that a change to cumulative or ranked voting without a change to districts and hybrid at large/by district voting system carry no immunity from a CVRA challenge. If the City Council desires to pursue a hybrid election system or ranked choice/cumulative voting to be placed on the November 2018 ballot, staff recommends utilizing an advisory committee. The advisory committee should be charged with the specific and narrow focus of election alternatives and should be directed not to pursue other charter issues, which the City Council has studied over the years and which are well beyond the City Council and staff's current work plan.

### **Impact on City Resources**

On October 4, 2017, the City Council budgeted \$75,000 for outside consultant demographic services and additional legal fees. The amount budgeted does not include staff time, legal fees or consulting fees associated with either an independent districting commission or a charter committee. If the City Council directs staff to proceed with either of these options, staff will likely need to return to the City Council for an additional appropriation.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment.

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<sup>38</sup> Cal. Gov't Code § 34454

<sup>39</sup> Under Elections Code § 1000, the established election dates are as follows:(a) the second Tuesday of April in each even-numbered year; (b) the first Tuesday after the first Monday in March of each odd-numbered year; (c) the first Tuesday after the first Monday in June in each year and (d) the first Tuesday after the first Monday in November of each year.

**Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 24 hours prior to the meeting.

**Attachments**

- A. Shenkman letter
- B. National Demographics Corporation client list
- C. 1990, 2000 and 2010 census data summary
- D. Advisory vs. Independent Districting Committee chart
- E. Resolution establishing an Advisory Districting Committee

Report prepared by:  
William L. McClure, City Attorney

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 Malibu, California 90265  
 (310) 457-0970  
[kshenkman@shenkmanhughes.com](mailto:kshenkman@shenkmanhughes.com)

**RECEIVED**

**AUG 21 2017**

**City Clerk's Office  
 City of Menlo Park**

VIA CERTIFIED MAIL

August 14, 2017

Jelena Harada  
 City Clerk  
 City of Menlo Park  
 701 Laurel Street  
 Menlo Park, CA 94025

*Re: Violation of California Voting Rights Act*

We are writing on behalf of Southwest Voter Registration Education Project and registered voters residing in Menlo Park. The City of Menlo Park (“Menlo Park”) relies upon an at-large election system for electing candidates to its City Council. Moreover, voting within Menlo Park is racially polarized, resulting in minority vote dilution. Therefore, Menlo Park’s at-large elections violate the California Voting Rights Act of 2001 (“CVRA”).

The CVRA disfavors the use of so-called “at-large” voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally Sanchez v. City of Modesto* (2006) 145 Cal.App.4<sup>th</sup> 660, 667 (“*Sanchez*”). For example, if the U.S. Congress were elected through a nationwide at-large election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the candidates in the voter's district, and the 435 candidates receiving the most nationwide votes would be elected. At-large elections thus allow a bare majority of voters to control *every* seat, not just the seats in a particular district or a proportional majority of seats.

Voting rights advocates have targeted “at-large” election schemes for decades, because they often result in “vote dilution,” or the impairment of minority groups’ ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) (“*Gingles*”). The U.S. Supreme

Court “has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to “ignore [minority] interests without fear of political consequences”), citing *Rogers v. Lodge*, 458 U.S. 613, 623 (1982); *White v. Register*, 412 U.S. 755, 769 (1973). “[T]he majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.” *Gingles*, at 47. When racially polarized voting occurs, dividing the political unit into single-member districts, or some other appropriate remedy, may facilitate a minority group's ability to elect its preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act (“FVRA”), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large election schemes. *Gingles* at 37; *see also* Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History* (1983) 40 Wash. & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, “[t]he Legislature intended to expand protections against vote dilution over those provided by the federal Voting Rights Act of 1965.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4<sup>th</sup> 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered “restrictive interpretations given to the federal act.” Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority district.” *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CVRA, not the desirability of any particular remedy. *See* Cal. Elec. Code § 14028 (“A violation of Section 14027 **is established** if it is shown that racially polarized voting occurs ...”) (emphasis added); *also see* Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001–2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).”)

To establish a violation of the CVRA, a plaintiff must generally show that “racially polarized voting occurs in elections for members of the governing body



of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are most probative: “elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” Elec. Code § 14028(a). The CVRA also makes clear that “[e]lections conducted prior to the filing of an action ... are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the circumstances” test – “are probative, but not necessary factors to establish a violation of” the CVRA. Elec. Code § 14028(e). These “other factors” include “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns.” *Id.*

Menlo Park’s at-large system dilutes the ability of Latinos and African Americans (each a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of Menlo Park’s council elections.

Menlo Park’s recent election history is illustrative. In 2016, Cecilia Taylor, an African American woman from Belle Haven, ran for City Council and lost. Although Latino and African American voters greatly preferred Ms. Taylor to her opponents, they were unable to counter the bloc voting of the non-Hispanic white majority. As for Latino candidates, none have run for Menlo Park City Council in the last 30 years, and it appears to be the case that no Latinos have *ever* run for Menlo Park City Council. This absence of minority candidates and specifically Latino candidates seeking Menlo Park City Council positions demonstrates the vote dilution that the CVRA is meant to prevent. *See Westwego Citizens for Better Government v. City of Westwego*, 872 F.2d 1201, 1208-1209, n. 9 (5<sup>th</sup> Cir. 1989).

Opponents of fair, district-based elections may imprudently point to the historical absence of Latino candidates as evidence for a lack of Latino interest in City Council positions. However, as the residents of Belle Haven attest,

Political non-involvement does not mean they do not care. Often people here are barred from involvement by feeling uncomfortable, or they do not have time, or they are not aware of how to be involved in a political process. There needs to be more outreach by City Council.

(Belle Haven Neighborhood Action Plan (July 2013))

According to recent data, Latinos comprise approximately 18.4% of the population of Menlo Park, which amounts to about 5,902 people. The aforementioned Belle Haven neighborhood houses the overwhelming majority of Menlo Park's Latinos, approximately 4,095 of the 5,902 - approximately 60% of the Belle Haven neighborhood. Similarly, approximately 4.8% of the population of Menlo Park is African American, concentrated in the Belle Haven neighborhood, such that approximately 29% of the Belle Haven neighborhood is African American. As Belle Haven residents have expressed, their limited involvement in Menlo Park City Council results from their feeling of forced separation from the western half of the city. City Council meetings rarely take place in Belle Haven, and when they do, many residents do not know when or where they are.

The City of Menlo Park has largely neglected Belle Haven, with 33% of residents agreeing that general neighborhood conditions have gotten worse since they started living there. Moreover, the City Council does not understand the lives and struggles of the people of Belle Haven, the majority of whom work low paying, service-industry jobs in order to support their families and afford homes in the poorest part of Menlo Park. Belle Haven residents and the Latino and African American community that largely resides there would greatly benefit from a district-based election, which would allow them to appoint candidates that understand the issues facing their neighborhood. However, there are currently no Latino or African American representatives, or even any representatives from Belle Haven on the Menlo Park City Council. The contrast between the significant Latino and African American proportions of the electorate and the complete absence of Latinos and African Americans elected to the City Council is telling.

As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale city council, with districts that combine all incumbents into one of the four districts.

Given the historical lack of Latino and African American representation on the city council in the context of racially polarized elections, we urge Menlo Park to

August 14, 2017  
Page 5 of 5

voluntarily change its at-large system of electing council members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please advise us no later than October 3, 2017 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,



Kevin I. Shenkman

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**Water Districts**

Alta Irrigation District  
 Antelope Valley-East  
 Kern  
 Eastern Municipal  
 Elsinore Valley  
 Municipal  
 Foothill Municipal  
 Fresno Irrigation  
 District  
 Jurupa Community  
 Services District  
 Mojave  
 Palmdale  
 Palomar-Pomerado  
 Health System  
 Rainbow Municipal  
 Rowland Municipal  
 San Bernardino  
 Three Valleys  
 Municipal  
 Tulare District Hospital  
 Walnut Valley Water  
 District  
 Western Municipal  
 Yucaipa

**School Districts**

Central AZ College  
 Cuesta CCD  
 Glendale CCD  
 Grossmont-Cuyamaca  
 CCD  
 Miracosta CCD  
 Palomar CCD  
 Rancho Santiago CCD  
 San Diego CCD  
 Santa Clarita CCD  
 Sierra CCD  
 Southwestern CCD  
 San Diego County  
 Office of Education  
 San Joaquin County  
 Office of Education  
 San Luis Obispo  
 County Office of  
 Education  
 Tuolumne County  
 Office of Education  
 Alpine Union  
 Alpine Union  
 Elementary  
 Alta Vista  
 Bakersfield City  
 Schools  
 Bonsall Union  
 Elementary  
 Borrego Springs  
 Unified  
 Burton Elementary  
 Cajon Valley Union  
 Cajon Valley Union  
 Elementary  
 Calistoga Joint Unified  
 Capistrano Unified  
 School District  
 Capistrano Uniifed  
 Cardiff Elementary  
 Carlsbad Unified  
 Caruthers  
 Cayucas

Centinela Valley  
 Central Unified  
 Chula Vista  
 Elementary  
 Chula Vista  
 Elementary  
 Clay Elementary  
 Clovis Unified  
 Coalinga – Huron  
 Board of Education  
 Coronado Unified  
 Dehesa Elementary  
 Del Mar Union  
 Elementary  
 Dinuba Unified  
 Eastern Sierra Unified  
 Elk Grove Unified  
 Encinitas Union  
 Elementary  
 Escalon Unified  
 Escondido Union  
 Elementary  
 Escondido Union High  
 Exeter Elem  
 Exeter High  
 Exeter Unified  
 Fallbrook Union  
 Elementary  
 Fallbrook Union High  
 Firebaugh-Las Deltas  
 Unified  
 Fresno Unified  
 Greenfield  
 Grossmont Union High  
 Jamul-Dulzura Union  
 Elementary  
 Julian Union  
 Elementary  
 Julian Union High  
 Kerman Unified  
 School District  
 Kern HSD  
 Kings Canyon Unified  
 School District  
 Kings River  
 Kingsburg Elem  
 Kingsburg High  
 La Mesa-Spring Valley  
 Lake Elsinore  
 Lakeside Union  
 Elementary  
 Lakeside Union  
 School  
 Lancaster Elementary  
 Lemon Grove  
 Elementary  
 Lindsay Unified  
 Madera Unified  
 Merced Union High  
 School District  
 Modoc  
 Monson Soltana  
 Mountain Empire  
 Unified  
 Napa Valley Unified  
 National Elementary  
 Oak Grove  
 Elementary School  
 District  
 Oceanside Unified  
 Pacific Union

Panama Buena Vista  
 Pasadena Area  
 Community College  
 District  
 Pasadena Unified  
 Pixley Union  
 Elementary  
 Pleasant View  
 Porterville  
 Poway Unified  
 Poway Unified  
 Ramona Unified  
 Rancho Santa Fe  
 Elementary  
 Richland School  
 District  
 Riverdale Joint Union  
 High School District  
 Riverdale Unified  
 San Diego City  
 Schools  
 San Dieguito Union  
 High  
 San Marcos Unified  
 San Pasqual Union  
 Elementary  
 San Ysidro  
 Elementary  
 Sanger Unified School  
 District  
 Santee Elementary  
 Selma Unified  
 Solana Beach  
 Elementary  
 South Bay Union  
 Spencer Valley  
 Elementary  
 Strathmore Elem  
 Sulphur Springs  
 Elementary  
 Sundale Union  
 Elementary  
 Sweetwater  
 Tulare City Elem  
 Tulare City High  
 Tulare County Board  
 of Education  
 Tulelake  
 Turlock Unified  
 Twin Rivers Unified  
 Vallecitos Elementary  
 Valley Center Pauma  
 Unified  
 Visalia Unified  
 Vista Unified  
 Walnut Valley Water  
 Warner Unified  
 Washington Union  
 Whittier Union High  
 Woodlake Union

**Cities**

City of Alhambra  
 City of Anaheim  
 City of Buckeye  
 City of Colton  
 City of Compton  
 City of Corcoran  
 City of Duarte  
 City of Elk Grove  
 City of Escondido

City of Firebaugh  
 City of Fowler  
 City of Glendale  
 City of Hanford  
 City of Lemoore  
 City of Menifee  
 City of Mesa  
 City of Madera  
 City of Modesto  
 City of Moreno Valley  
 City of Oakland  
 City of Palmdale  
 City of Parlier  
 City of Pasadena  
 City of Peoria  
 City of Phoenix  
 City of Pomona  
 City of Reedley  
 City of San Diego  
 City of Sanger  
 City of Santa Clarita  
 City of Santa Rosa  
 City of Stockton  
 City of Surprise  
 City of Tulare  
 City of Visalia

**Counties**

Clark County  
 Kings County  
 Los Angeles County  
 Merced County  
 San Bernardino  
 County  
 San Diego County  
 San Mateo County  
 Yuma County

**Other Entities**

Atlantic Richfield  
 Company  
 Los Angeles County  
 Fairplex  
 National Association  
 of Manufacturers  
 Southern California  
 Disposal  
 Las Virgenes – Malibu  
 Council of  
 Governments  
 San Gabriel Valley  
 Association of Cities  
 San Bernardino  
 Association of  
 Governments  
 Tulare District Hospital  
 Jurupa CSD  
 Palomar-Pomerado  
 Health System  
 Tulare Health Care  
 District  
 Westside Community  
 Health Care District

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			2010 Census	2000 Census	1990 Census			
<b>Census Tract 6117 - San Mateo County (2010)</b>			<b>Number</b>	<b>%</b>				
<b>Total population</b>	<b>5,970</b>	<b>100</b>						
One race	5,716	95.7						
White	1,727	28.9						
Black or African American	1,130	18.9						
American Indian and Alaska Native	87	1.5						
American Indian, specified [1]	32	0.5						
Alaska Native, specified [1]	0	0						
Both American Indian and Alaska Native, specified [1]	0	0						
American Indian or Alaska Native, not specified	55	0.9						
Asian	167	2.8						
Native Hawaiian and Other Pacific Islander	335	5.6						
Some Other Race	2,270	38						
Two or More Races	254	4.3						
Two races with Some Other Race	117	2						
Two races without Some Other Race	101	1.7						
Three or more races with Some Other Race	15	0.3						
Three or more races without Some Other Race	21	0.4						
<b>HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	5,970	100						
Hispanic or Latino (of any race)	4,095	68.6						
Mexican	3,298	55.2						
Puerto Rican	11	0.2						
Cuban	3	0.1						
Other Hispanic or Latino [2]	783	13.1						
Not Hispanic or Latino	1,875	31.4						
<b>RACE AND HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	5,970	100						
One race	5,716	95.7						
Hispanic or Latino	3,935	65.9						
Not Hispanic or Latino	1,781	29.8						
Two or More Races	254	4.3						
Hispanic or Latino	160	2.7						
Not Hispanic or Latino	94	1.6						
<b>Census Tract 6117 - San Mateo County (2000)</b>			<b>Number</b>	<b>%</b>				
<b>Total population</b>	<b>6,095</b>	<b>100</b>						
One race	5,774	94.7						
White	1,253	20.6						
Black or African American	1,828	30						
American Indian and Alaska Native	82	1.3						
American Indian, specified [1]	14	0.2						
Alaska Native, specified [1]	0	0						
Both American Indian and Alaska Native, specified [1]	0	0						
American Indian or Alaska Native, not specified	68	1.1						
Asian	39	0.6						
Native Hawaiian and Other Pacific Islander	315	5.2						
Some Other Race	2,257	37						
Two or More Races	321	5.3						
Two races with Some Other Race	209	3.4						
Two races without Some Other Race	112	1.8						
Three or more races with Some Other Race	87	1.4						
Three or more races without Some Other Race	25	0.4						
<b>HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	6,095	100						
Hispanic or Latino (of any race)	3,653	59.9						
Mexican	2,885	47.3						
Puerto Rican	3	0						
Cuban	0	0						
Other Hispanic or Latino [2]	765	12.6						
Not Hispanic or Latino	2,442	40.1						
<b>RACE AND HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	6,095	100						
One race	5,774	94.7						
Hispanic or Latino	3,467	56.9						
Not Hispanic or Latino	2,307	37.9						
Two or More Races	321	5.3						
Hispanic or Latino	186	3.1						
Not Hispanic or Latino	135	2.2						
<b>Census Tract 6117 - San Mateo County (1990)***</b>			<b>Number</b>	<b>%</b>				
<b>Total population</b>	<b>5,127</b>	<b>100</b>						
One race								
White	1,429	27.8						
Black or African American	2,991	58.3						
American Indian and Alaska Native	52	1						
American Indian, specified [1]								
Alaska Native, specified [1]								
Both American Indian and Alaska Native, specified [1]								
American Indian or Alaska Native, not specified								
Asian	57	1						
Native Hawaiian and Other Pacific Islander	211	4						
Some Other Race								
Two or More Races								
Two races with Some Other Race								
Two races without Some Other Race								
Three or more races with Some Other Race								
Three or more races without Some Other Race								
<b>HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	5,127	100						
Hispanic or Latino (of any race)	1,691	32.9						
Mexican								
Puerto Rican								
Cuban								
Other Hispanic or Latino [2]								
Not Hispanic or Latino	3,436	67						
<b>RACE AND HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>				
Total population	5,127							
One race								
Hispanic or Latino								
Not Hispanic or Latino								
Two or More Races								
Hispanic or Latino								
Not Hispanic or Latino								
<b>City of Menlo Park</b>			<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>
<b>Total population</b>	<b>32,026</b>	<b>100</b>	<b>30,785</b>	<b>100</b>	<b>28,040</b>	<b>100</b>		
One race	30,588	95.5	29,798	96.8				
White	22,494	70.2	22,274	72.4	22,176	79		
Black or African American	1,551	4.8	2,163	7	3,467	12.3		
American Indian and Alaska Native	156	0.5	136	0.4				
American Indian, specified [1]	83	0.3	47	0.2				
Alaska Native, specified [1]	1	0	3	0				
Both American Indian and Alaska Native, specified [1]	0	0	0	0				
American Indian or Alaska Native, not specified	72	0.2	86	0.3				
Asian	3,157	9.9	2,201	7.1	1,668**	5.9		
Native Hawaiian and Other Pacific Islander	454	1.4	389	1.3				
Some Other Race	2,776	8.7	2,635	8.6				
Two or More Races	1,438	4.5	987	3.2				
Two races with Some Other Race	231	0.7	381	1.2				
Two races without Some Other Race	1,082	3.4	606	2				
Three or more races with Some Other Race	33	0.1	549	1.8				
Three or more races without Some Other Race	92	0.3	57	0.2				
<b>HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>
Total population	32,026	100	30,785	100	28,040	100		
Hispanic or Latino (of any race)	5,902	18.4	4,803	15.6	2,710	9.6		
Mexican	4,303	13.4	3,502	11.4				
Puerto Rican	78	0.2	46	0.1				
Cuban	35	0.1	31	0.1				
Other Hispanic or Latino [2]	1,486	4.6	1,224	4				
Not Hispanic or Latino	26,124	81.6	25,982	84.4	20,216	72.1		
<b>RACE AND HISPANIC OR LATINO</b>			<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>
Total population	32,026	100	30,785	100				
One race	30,588	95.5	29,798	96.8				
Hispanic or Latino	5,571	17.4	4,516	14.7				
Not Hispanic or Latino	25,017	78.1	25,282	82.1				
Two or More Races	1,438	4.5	987	3.2				
Hispanic or Latino	331	1	287	0.9				
Not Hispanic or Latino	1,107	3.5	700	2.3				

\*\* 1990 Census combined Asian or Pacific Islander

\*Source: 2010 & 2000 - Census Summary File QT-P3 & <https://www.census.gov/library/publications/1992/dec/cp-1.html>

\*\*\*Source: Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System: Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017.

<http://doi.org/10.18128/D050.V12.0>

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## Comparison of Advisory and Independent Districting Committees

Effective January 1, 2017, State law allows general law cities to appoint advisory and independent districting committees. An advisory committee makes district recommendations to the City Council, while an independent commission has authority to adopt district boundaries on its own. This chart compares the key differences between advisory and independent committees.

	<b>Advisory Committee</b>	<b>Independent Commission</b>
Statutory Authority	Elections Code 23002	Elections Code 23003
Scope	Recommends a districting map to the City Council	Has authority to independently adopt City districting map
Selection Process	<ul style="list-style-type: none"> <li>• Must be resident of City</li> <li>• City may prescribe the manner in which members are appointed to the commission.</li> </ul>	<ul style="list-style-type: none"> <li>• Must be resident of City</li> <li>• City may prescribe the manner in which members are appointed to the commission, provided it uses an application process open to all eligible residents.</li> <li>• City may also impose additional qualifications and restrictions on members of the commission in excess of those prescribed by State law.</li> <li>• Must not be comprised of members from a single political party</li> </ul>
Member Disqualification	<ul style="list-style-type: none"> <li>• A person who is an elected official of the City</li> <li>• A family member, staff member, or paid campaign staff of an elected official of the City</li> </ul>	<p>A person, or the family member of a person, who has done any of the following in the preceding <u>eight years</u>, shall not be appointed to serve on a commission:</p> <ol style="list-style-type: none"> <li>(1) Been elected or appointed to, or been a candidate for, an elective office of the City.</li> <li>(2) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the City.</li> <li>(3) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.</li> </ol>

		<p>(4) Served as a staff member of, consultant to, or contracted with, a currently serving elected officer of the City</p> <p>(5) Been registered to lobby the City.</p> <p>(6) Contributed five hundred dollars (\$500) or more in a year to any candidate for an elective office of the City</p>
Conduct Prohibitions While Serving on Committee		While serving on the commission, members may not endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the City.
Post-Service Conduct Prohibitions		<ul style="list-style-type: none"> <li>• For 10 years commencing on appointment to the commission, a commission member is prohibited from being a candidate for an elective office of the City</li> <li>• For 4 years commencing on appointment to the commission, a commission member may not: <ul style="list-style-type: none"> <li>(1) Accept an appointment to an office (i.e., City Board or Commission) of the City.</li> <li>(2) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the City.</li> <li>(3) Receive a noncompetitively bid contract with the City.</li> <li>(4) Register as a lobbyist for the City.</li> </ul> </li> </ul>
Commission Requirements	<ul style="list-style-type: none"> <li>• Form 700 likely required</li> <li>• Subject to the Brown Act</li> <li>• Subject to Public Records Act</li> </ul>	<ul style="list-style-type: none"> <li>• Must file Form 700</li> <li>• Subject to the Brown Act</li> <li>• Subject to Public Records Act</li> <li>• Commission shall not draw districts favoring or discriminating against incumbents or candidates</li> </ul>
Public Hearings	City Council must conduct one public hearing before acting on Advisory Committee's recommendation	Commission must conduct three public hearings

**RESOLUTION NO. xxxx****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
ESTABLISHING AN ADVISORY DISTRICTING COMMITTEE PURSUANT  
TO ELECTIONS CODE SECTION 23002**

WHEREAS, members of the City Council of the City of Menlo Park ("City") are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886 in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an "at-large" system to a "district-based" system in which each councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received a certified letter on August 21, 2017, from Kevin Shenkman of the law firm of Shenkman & Hughes asserting that the City's at-large councilmember electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the City declines to voluntarily change to a district-based election system for electing councilmembers; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting occurs in elections (Elections Code Section 14028(a)). "Racially polarized voting" means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (Elections Code Section 14026(e)); and

WHEREAS, although the letter was not accompanied by any evidence to support the claim of a CVRA violation, the City Council has directed staff to initiate the process to establish by-district elections to avoid costs associated with defending a lawsuit based on the CVRA, even if that lawsuit settles; and

WHEREAS, the California Legislature in amendments to Elections Code Section 10010, has provided a method whereby a jurisdiction can expeditiously change to a by-district election system and avoid the high cost of litigation under the CVRA; and

WHEREAS, the City denies its election system violates the CVRA or any other provision of law and asserts the City's election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its City Council elections; and

WHEREAS, despite the foregoing, the City Council has concluded it is in the public interest to begin the process of transitioning from at-large to district-based elections due to the uncertainty of litigation to defend against a CVRA lawsuit, the potentially extraordinary cost of such a lawsuit, even if the City were to prevail; and

WHEREAS, on October 4, 2017, the City Council adopted a Resolution expressing its Intent to transition from at-large to district based elections; and

WHEREAS, Elections Code 23002 authorizes the City Council to appoint an advisory districting committee and Menlo Park Municipal Code Section 2.04.200 requires the City Council to form committees by Resolution; and

WHEREAS, the City Council desires to receive input on district boundaries from a geographically diverse sector of the community, including the Belle Haven neighborhood which is the subject of the CVRA complaint; and

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do hereby resolve as follows:

SECTION 1. Establishment. The City Council hereby establishes the Menlo Park Districting Advisory Committee.

SECTION 2. Membership. [NOTE: CITY COUNCIL TO DESIGNATE COMMITTEE MEMBERSHIP; SAMPLE MEMBERSHIP CRITERIA FOR DISCUSSION PURPOSES ONLY.]

The Committee shall consist of five members: the Chair of the Planning Commission; the Chair of the Housing Commission; a resident of the Belle Haven neighborhood and two residents of geographically diverse neighborhoods. Family members, staff members or paid campaign staff of an elected official of the City shall not be eligible for this Committee. Committee members shall be appointed by the City Council following a publicly noticed application process open to all eligible residents.

SECTION 3. Purview. The Committee shall conduct at least two public hearings to discuss and consider district boundaries. By February 15, 2018, or as soon thereafter as possible, the Committee shall present two recommendations to the City Council: (1) a recommendation for dividing the City into five voting districts and (2) a recommendation for dividing the City into six voting districts (with an at large elected mayor).

SECTION 4. Districting Criteria. The Committee shall take into account the following legally required criteria in recommending district boundaries:

- Each City Council district shall contain a nearly equal population;
- A districting plan shall be drawn in a manner that complies with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution; and
- City Council districts shall not be drawn with race as the predominate factor.

The Committee may also take into account additional criteria such as including topographical and geographical boundaries (major roads, freeways, creeks, railroad lines or other barriers) and communities of interest (school district boundaries, neighborhood boundaries, retail/commercial districts, voting precincts etc.).

SECTION 5. Public Transparency. The Committee members shall file Form 700 conflict of interest forms. The Committee shall be subject to the Brown Act and the Public Records Act.

I, Clay Curtin, Interim City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-ninth day of November, 2017, by the following votes:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-ninth day of November, 2017.

---

Clay J. Curtin, Interim City Clerk

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## STAFF REPORT

**City Council**  
**Meeting Date:** 11/29/2017  
**Staff Report Number:** 17-291-CC

**Regular Business:** **Consider appealing the Santa Clara Council Planning Commission approvals for the Center for Academic Medicine**

### Recommendation

Staff recommends that the Menlo Park City Council consider approving an appeal of the following Santa Clara County Planning Commission actions relative to the approval of the Center for Academic Medicine: (1) approve an Addendum to the 2000 Stanford Community Plan and General Use Permit (GUP) Program Environmental Impact Report, (2) approve an amendment to the GUP redistributing 115,000 square feet of academic square footage from the East Campus District to the Quarry District, (3) approve Architecture and Site Approval, and (4) approve Grading Approval.

### Policy Issues

The decision to submit an appeal of the Santa Clara County Planning Commission's recent actions to approve the Center for Academic Medicine (CAM) is a policy issue. An appeal would be consistent with the previous action taken by the City on the proposed CAM project that could induce environmental impact to the City of Menlo Park. An appeal would bring Menlo Park's concerns regarding the CAM project up for reconsideration by the Santa Clara County Board of Supervisors in a public hearing.

### Background

Stanford University's proposed CAM project under the University's 2000 GUP includes the redistribution of 115,000 square feet (sq. ft.) from the East Campus District to the Quarry District of the Stanford 2000 GUP for the purpose of constructing a Center for Academic Medicine. The CAM facility is a new approximately 155,000 sq. ft. 4-story building with three levels of underground parking (approximately 290,000 sq. ft.). The building would be a predominantly office and administrative building to house School of Medicine faculty and their associated administrative staff. The proposed underground parking would include 585 new parking spaces. For additional background details, please see the staff report dated November 14, 2017 (Attachment A).

On October 18, 2017, Santa Clara County prepared an Addendum to the 2000 Stanford Community Plan and GUP Program Environmental Impact Report (EIR). The Addendum concluded that the CAM project had been adequately evaluated in the previously certified EIR, adopted December 15, 2000, by the Board of Supervisors, and therefore no further environmental review was required. A public hearing on the proposed CAM project was scheduled for October 26, 2017, with the Santa Clara County Planning Commission.

The City of Menlo Park became aware of Stanford's proposed CAM project upon the release of the agenda for the October 26, 2017, meeting. The City Council requested additional time to review the proposed project for potential traffic impacts within Menlo Park. Per the City of Menlo Park's request, the Commission approved a continuance to November 16, 2017.

On November 16, 2017, the City of Menlo Park submitted a comment letter to Santa Clara County Planning Commission focusing on the CAM project's potential transportation impacts. Specifically, because the 2000 GUP EIR is now over 17 years old and the two recent Stanford Hospital projects and the recent 500 El Camino Real project were not considered in the EIR for the 2000 GUP, there are changed circumstances and new information that necessitate the preparation of a Supplemental EIR. A copy of that comment letter is attached (Attachment B). On this basis, the City of Menlo Park requested that an updated traffic analysis be prepared for supplemental environmental review.

In response to Menlo Park's letter, legal counsel for Stanford submitted a letter in support of the County's position that the traffic analysis was adequate and no further study was necessary. A copy of the response letter is attached (Attachment C). The letter argues that because both projects referenced in the City of Menlo Park's letter were evaluated in project level EIRs and were required to account for cumulative build out of Santa Clara County's approved 2000 Stanford University General Use Permit that there is no requirement under CEQA that the County modify its 2000 EIR to account for later independent projects that other jurisdictions subsequently evaluated and approved.

On November 16, 2017, the Santa Clara County Planning Commission conducted a public hearing and approved all four action items, including the Addendum to the EIR, the redistribution of 115,000 square feet of academic square footage from the East Campus District to the Quarry District, architectural and site approval and grading approval.

Pursuant to Santa Clara County Ordinance Code Chapter 5.30, the decision may be appealed to the Board of Supervisors within 15 days, i.e., by December 1, 2017.

## **Analysis**

Santa Clara County Ordinance Code provides that anyone dissatisfied with a discretionary land use decision may file an appeal for the reconsideration of the decision in a public hearing. Appeals from a decision of the Planning Commission are heard by the Board of Supervisors. The appeal application shall clearly identify the grounds for the appeal and must be accompanied by the applicable fee before the close of business on the 15th calendar day after the decision. The Board of Supervisors' review of the matter is de novo, and the Board may consider the entire scope of the application under consideration, including the proceedings and conclusions of the original decision-maker.

The basis for the comment letter submitted by the City of Menlo Park to the Santa Clara County Planning Commission remain. Nothing in the public record or that was presented at the Planning Commission has adequately addressed the comments. Individual environmental review of the Stanford Hospital projects and 500 El Camino Real and consideration of the 2000 GUP in the cumulative impact discussion does not relieve Santa Clara County from analyzing the environmental impacts associated with changes to the 2000 GUP that could result from the proposed CAM project. The City remains concerned about unanalyzed and unmitigated transportation impacts of the CAM project. The draft appeal letter is attached (Attachment D).

## **Impact on City Resources**

The fee for the filing of the appeal is one thousand three hundred fifty-nine (\$1,359). In addition, staff time will be necessary for the preparation of any supporting documentation necessary to support the appeal and for attendance at the public hearing, which will continue to affect other ongoing project priorities.



### **Environmental Review**

This item does not require environmental review.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

- A. November 14, 2017, Staff Report #17-284-CC – Hyperlink:  
<https://www.menlopark.org/DocumentCenter/View/15970>
- B. November 16, 2017, City of Menlo Park comment letter
- C. November 16, 2017, Stanford response letter from Perkins Coie
- D. City of Menlo Park draft appeal letter

Report prepared by:

Leigh Prince, Assistant City Attorney

Report reviewed by:

Nikki Nagaya, Assistant Public Works Director

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November 16, 2017

County of Santa Clara Planning Commission  
County Government Center  
70 West Hedding Street, 7<sup>th</sup> Floor  
San Jose, CA 95110

**RE: Land Use Hearing Item 5 – Amendment to the 2000 General Use Permit/453  
Quarry Road, Stanford University Center for Academic Medicine Project**

Dear Chairperson Debra Cauble,

Please find included the City of Menlo Park's comments on the GUP EIR Intersection Evaluation, Local Access and Circulation Study, Off-Site Intersection Impacts and associated peer reviews for the Stanford University Center for Academic Medicine Project (File# 11037-17A-17G and ID# 88444).

The City appreciates the opportunity to comment on the proposed project and the Planning Commission's continuance of this item to allow for our review. Our comments are detailed below.

The City requests that these items be addressed prior to the Planning Commission taking action on the proposed project.

1. The City requests that Stanford work with the City of Menlo Park to develop a notification process for future projects that have potential impacts that may be within the City of Menlo Park's jurisdiction. This will enable the City to review and provide comments for projects and analyses in advance of public hearings, thereby helping streamline the overall process.
2. Under Public Resources Code 21166, a supplemental EIR is required if:
  - a) Project changes require major revisions of the EIR
  - b) Changed circumstances have occurred that require major revisions or
  - c) New information becomes available that was not known and could not have been known at the time the EIR was certified.

CEQA Guidelines 15162 further clarifies that the new information referenced in Public Resources Code § 21166 will trigger a supplemental EIR if:

- 1) The project will have significant effects not discussed in the previous EIR or negative declaration;

- 2) The effects will be more severe than discussed in the previous EIR;
- 3) Mitigation measures or alternatives previously found not to be feasible are in fact feasible and the project proponents decline to adopt the mitigation measure or alternative; or
- 4) New mitigation measures or alternatives which are different from those analyzed in the EIR would reduce the impact, but the proponents decline to adopt.

The Quarry Road project warrants further environmental analysis, in particular a more detailed assessment of traffic conditions and impacts on the surrounding roadway network. The 2000 GUP EIR is now 17 years old. It did not analyze the two Stanford Hospital projects located in the City of Palo Alto which add approximately One Million net new square feet and which do not contain a trip cap. Further, the City of Menlo Park objected to the traffic projections that were used in the Stanford Hospital environmental reviews previously, which grossly underestimated the number of trips that would be generated by the new hospitals.

The 2000 GUP EIR also does not analyze recently approved Middle Plaza project located at 500 El Camino in Menlo Park. Likewise, the recent 2016 traffic counts taken for the 2018 GUP Draft EIR do not account for these two major projects which are not yet constructed or occupied.

The City is requesting that an updated traffic analysis be prepared to review potential impacts on the transportation system in the vicinity of the proposed project, including intersections and roadway segments within Menlo Park. This additional analysis should be used to prepare supplemental environmental review under CEQA, such as an initial study or supplemental EIR as relevant from the findings of the traffic analysis.

3. The City requests this additional transportation analysis evaluate the reconfiguration of the El Camino Real and Sand Hill Road intersection to allow through traffic on to Palo Alto Avenue. Currently, traffic headed eastbound on Sand Hill Road turns north to head into Menlo Park and U-turns at Cambridge Avenue or uses local residential streets in Menlo Park to cut-through the Allied Arts neighborhood to avoid congested conditions in the area. The City acknowledges that the El Camino Real and Sand Hill Road intersection is under the jurisdiction of the City of Palo Alto and Caltrans. However, Stanford traffic is a major contributor to this issue and should be mitigated prior to additional development being considered.
4. On November 14, 2017, the Menlo Park City Council rescinded previously granted approvals for a Stanford application for a new office building at 2131 Sand Hill Road based on the new information now being considered as part of the Center for Academic Medicine project. This reversal was requested by Stanford representatives that stated, "In light of the information you've requested...in response to the prior item [CAM project], whether this item should be continued such that you get that information before you make a final call on this [2131 Sand Hill Road project]."
5. Further, the City has concerns with the overall process of evaluating traffic impacts when development is moved to a different district. The City is concerned that allowing movement of building square footage between different districts may

alter traffic impacts that is not captured in the 2000 GUP EIR analyses. Further, since traffic projections are distributed and assigned based on the number of parking spaces in each district, the City is concerned that moving building square footage or housing units/beds for future projects could be completed administratively, if an excess of parking in a given district exists.

Please contact us at 650-330-6770 with any questions.

Sincerely,



Kirsten Keith  
Mayor

Cc:

Menlo Park City Council

Santa Clara County Board of Supervisors President Dave Cortese, District 3

Santa Clara County Board of Supervisors Vice President S. Joseph Simitian, District 5

Santa Clara County Board of Supervisors Boardmember Mike Wasserman, District 1

Santa Clara County Board of Supervisors Boardmember Cindy Chavez, District 2

Santa Clara County Board of Supervisors Boardmember Ken Yeager, District 4

City of Palo Alto Mayor Gregory Scharff

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November 16, 2017

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Debra Cauble  
Chair, Santa Clara County Planning Commission  
70 W. Hedding Street  
San Jose, CA 95110-1770

Re: Stanford University Center for Academic Medicine

Dear Ms. Cauble and Members of the Planning Commission:

Stanford University has received the letter from the City of Menlo Park commenting on the Center for Academic Medicine project approvals, dated November 16, 2017. The letter does not raise any issue requiring a continuance of this Commission's proceedings.

Santa Clara County approved Stanford's General Use Permit back in 2000. That use permit authorizes 2,035,000 net new square feet of academic and academic support buildings on the Stanford campus. Your staff report and attached studies demonstrate that the Center for Academic Medicine is within the square footage authorized by the 2000 General Use Permit. Further, your record shows that reallocating square footage from one development district to another will not result in any new or different environmental impacts compared to those disclosed in the 2000 General Use Permit EIR. This stands to reason. The 2000 EIR anticipated more than 800 parking spaces in the Quarry Development District. The Center for Academic Medicine does not necessitate moving any additional parking spaces to the Quarry Development District. The locations where cars enter and exit the campus are tied to parking, not building square footage. The record shows the Center for Academic Medicine will not result in more vehicle trips than were anticipated in the 2000 EIR, and those trips will not be distributed differently than anticipated in the 2000 EIR.

Your record also shows there has been no change in circumstances that would cause the impacts of this project to be different from previously disclosed in the 2000 General Use Permit EIR. External conditions on local roadways are not different from the conditions anticipated in the 2000 EIR. In fact, roadway volumes are far lower than predicted in the 2000 EIR.

The City of Menlo Park mentions two independent future projects that they contend should be evaluated: the Stanford University Medical Center Renewal and Replacement Project in Palo

Alto, and the Middle Plaza mixed use project in Menlo Park. Both projects were evaluated in Environmental Impact Reports that were required to account for cumulative build out of Santa Clara County's approved 2000 Stanford University General Use Permit. There is no requirement under CEQA that the County modify its 2000 EIR to account for later independent projects that other jurisdictions subsequently evaluated and approved.

In any event, Stanford's traffic consultants at Fehr & Peers performed an evaluation that layered traffic anticipated from the SUMC project and traffic associated with the Center for Academic Medicine onto actual counts of traffic conditions taken in 2016. Even with all traffic from the medical center project layered onto background conditions, the total volumes on Sand Hill Road and El Camino Real *still* will be lower than the volumes anticipated in the 2000 General Use Permit EIR.<sup>1</sup> The County's independent consultants at AECOM agree. The approval of the medical center project does not constitute a change in circumstance that would cause the impacts of the 2000 General Use Permit to be greater than previously disclosed in the 2000 EIR.

Now, Menlo Park claims that its own October 2017 project approval of a mixed use project at Middle Avenue in Menlo Park (500 El Camino Real) constitutes a change in circumstance requiring the *County* to perform additional CEQA review. This is incorrect. Menlo Park was required to take build out of the 2000 General Use Permit into account when *it* decided whether or how to approve the Middle Plaza project, not the other way around. Further, it is particularly disappointing that Menlo Park would take this position when City policy makers know that the Middle Plaza project is intended to house Stanford University faculty and staff, which will enable residents to walk or bicycle the very short distance to the campus rather than drive.

Menlo Park's Infill Environmental Impact Report estimates that the entire mixed use project would generate a total of 336 morning peak hour trips, and 326 evening peak hour trips, and Menlo Park's EIR shows how those trips would be distributed on area roadways. In response to Menlo Park's letter, Fehr & Peers has layered the Middle Plaza trips onto the 2016 actual traffic counts, the future trips from the SUMC project and the future trips from the Center for Academic Medicine. The analysis continues to show that total volumes on Sand Hill Road and El Camino Real will be less than the volumes that were anticipated in the 2000 General Use Permit EIR.

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<sup>1</sup> Menlo Park states that it does not agree with the traffic assumptions in Palo Alto's certified EIR for the SUMC Project. But the period to challenge that analysis expired in 2011. It is far too late for Menlo Park to contest the adequacy of the SUMC EIR.



Debra Cauble  
November 16, 2017  
Page 3

In sum, there is no change in circumstances that will cause the Center for Academic Medicine to result in greater impacts than were disclosed in the County's 2000 General Use Permit EIR. We ask that the County Planning Commission proceed with its project approvals.

Very truly yours,



Barbara J. Schussman

BJS

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November 30, 2017

Secretary of the Planning Commission  
County of Santa Clara  
County Government Center  
70 West Hedding St.  
San Jose, CA 95110

**RE: Appeal of Planning Commission Action Land Use 88928**

Dear Secretary of the Planning Commission,

The City Council of the City of Menlo Park at a public hearing on November 28, 2017, voted to appeal the actions of the Santa Clara County Planning Commission relative to the approval of the Center for Academic Medicine project. On November 19, 2017, the Planning Commission took action to: (1) approve an Addendum to the 2000 Stanford Community Plan and General Use Permit (GUP) Program Environmental Impact Report; (2) approve an amendment to the GUP redistributing 115,000 square feet of academic square footage from the East Campus District to the Quarry District; (3) approve Architecture and Site Approval; and (4) approve grading approval.

The City of Menlo Park is appealing those listed actions in accordance with Santa Clara County Ordinance Code Chapter 5.30. The appeal is timely, within 15 days of the action, and the grounds for the appeal are detailed in the attached letter, which was sent to the Planning Commission on November 16, 2017, and the attached staff report for the November 29, 2017, Menlo Park City Council meeting. In addition, attached hereto is the appeal fee of one thousand three hundred fifty-nine dollars (\$1,359).

The City of Menlo Park appreciates the opportunity for a de novo hearing before the Board of Supervisors. Please contact Assistant Public Works Director Nikki Nagaya at 650-330-6770 or [nhnagaya@menlopark.org](mailto:nhnagaya@menlopark.org) with any questions.

Sincerely,

Kirsten Keith  
Mayor

**Enclosures**

November 16, 2017, City of Menlo Park comment letter

November 29, 2017, City of Menlo Park staff report

Appeal fee



## STAFF REPORT

**City Council**  
**Meeting Date:** 11/29/2017  
**Staff Report Number:** 17-288-CC

**Regular Business:** Approve a comment letter on the Draft Environmental Impact Report for the Stanford University 2018 General Use Permit Project

### Recommendation

Staff recommends that the City Council approve a comment letter (Attachment A) requesting revisions and recirculation of the Draft Environmental Impact Report (DEIR) for the Stanford University 2018 General Use Permit (GUP) Project.

### Policy Issues

This action is consistent with prior actions taken by the City on proposed projects located in neighboring jurisdictions that could induce environmental impact to the City of Menlo Park. Specifically, the City Council's 2017 Work Plan identifies this Project (Item #4).

This action is also consistent with policies and programs (i.e., LU-1.5, CIRC-1.B, CIRC-2.15) stated in the 2016 City General Plan Land Use & Circulation Elements. These policies and programs seek to ensure Menlo Park goals and objectives are met for development within its sphere of influence and to collaborate with neighboring jurisdictions to develop, fund and implement local and regional transportation planning/engineering efforts.

### Background

Stanford University (Stanford) is a private university located on the San Francisco Peninsula. Stanford owns approximately 8,180 acres of land spanning across six (6) governmental jurisdictions. These jurisdictions include: unincorporated areas of Santa Clara County and San Mateo County, the cities of Palo Alto, Menlo Park, and the towns of Portola Valley and Woodside.

In 2000, the Santa Clara County Board of Supervisors adopted the Stanford University Community Plan and the 2000 GUP. Both documents helped guided Stanford's current growth and development within the unincorporated area of Santa Clara County. The unincorporated area is generally bounded by Sand Hill Road and Quarry Road to the north, El Camino Real to the east, Stanford Avenue and Page Mill Road to the south, and Arastradero Road and Alpine Road to the west.

The unincorporated Santa Clara County area is divided into two concentrated areas. The Stanford's core campus area, which includes academic and housing facilities, is located north of

Junipero Serra Boulevard, also known as the Stanford's Academic Growth Boundary. The other area covers vast undeveloped lands south of Junipero Serra Boulevard.

According to the DEIR project description, Stanford has developed approximately 9.6 million square feet of net new academic and academic support land uses, 11,293 student housing beds, and 937 faculty/staff housing units on the campus as of fall 2015. Under the 2000 GUP, as amended currently, Stanford was allowed construction of 2.035 million sf; 4,468 housing units/beds and ancillary uses. As of fall 2015, approximately 1.54 million square feet of net new academic and academic support land uses, 2,852 student beds and faculty/staff housing units are allowable under the 2000 GUP.

In November 2016, Stanford submitted an application (Attachment B) to the County of Santa Clara to update its current 2000 GUP. The proposed 2018 GUP includes 2.275 million square feet of net new academic support land uses, 2,600 student beds, and 550 faculty/staff housing units beyond the current 2000 GUP allowances. The County of Santa Clara is the Lead Agency. Ultimately, Stanford seeks the following approvals from the County:

- Certification of the 2018 GUP EIR
- Adoption of a new 2018 GUP
- Approval of amendments to the Stanford Community Plan
- Approval of amendments to the County Zoning Map

On January 3, 2017, the County of Santa Clara issued a Notice of Preparation (NOP) of the Project's EIR. The NOP describes the project background, proposed project scope, and a range of environmental topic areas to be evaluated, including project alternatives. On February 28, 2017, Stanford presented an update to the City Council and the City submitted a comment letter March 6, 2017, on the NOP as approved by the City Council.

On October 6, 2017, the County of Santa Clara released the DEIR (Attachment C) for the Project with a 60-day public review period ending December 4, 2017. A summary of the issues evaluated in the DEIR and a summary of the City's comments on the DEIR, are provided in the following section.

## **Analysis**

The DEIR represents a program-level evaluation of the proposed Project. A program-level EIR provides the initial framework for review of discrete, future projects. It establishes a maximum development allowance for Stanford University and provides a framework for where anticipated development would occur (by districts). A map of the different districts and development potential within each is shown in Attachment D.

On October 17, 2017, Santa Clara County and Stanford representatives presented information on the project and DEIR to the City Council. On October 31, 2017, the City Council's Stanford General Use Permit Subcommittee convened to provide staff direction on key areas to incorporate into the draft comment letter on the DEIR. Santa Clara County hosted several community meetings during the DEIR public review period, and City staff attended meetings on October 19, 2017, in Palo Alto and November 15, 2017, in Menlo Park to hear community feedback and concerns, which has also been considered as part of staff's review.

Staff has prepared a draft comment letter describing the City's specific comments on the DEIR. The key issues highlighted in the comment letter include requests to:

- Revise and recirculate the DEIR to address the City's comments
- Process considerations for notification and evaluation of relocating development on-campus across districts, as exacerbated by the recent Center for Academic Medicine Project on Quarry Road
- Expand No Net New Trips Monitoring beyond peak hour, peak direction only to add shoulder hours, reverse commute trips and daily trip limits
- Evaluate transportation impacts and identify necessary mitigation measures for reverse commute direction trips
- Provide floodwater detention area on Stanford lands
- Maximize affordable housing for faculty, staff, students and indirect Stanford employees
- Incorporate contributions to infrastructure projects that complete the pedestrian and bicycle network near Stanford University, including the Middle Avenue Pedestrian/Bicycle Crossing and reconstruction of the Alpine Road-Junipero Serra Boulevard pedestrian and bicycle undercrossing
- Support to maintain the existing academic growth boundary

Once approved by the City Council, staff will submit the final comment letter to Santa Clara County by the December 4, 2017, deadline.

#### *Request for Extension*

In addition, staff has requested a 60-day extension of the public review period until early February 2018 to ensure all comments are identified and addressed (Attachment E). This request was submitted to Santa Clara County Planning Department staff with a request to respond by November 29, 2017. Staff will provide a verbal update to the City Council at the November 29, 2017, meeting on the status of this request. The City of Palo Alto also has made a similar request to Santa Clara County for an extension.

#### **Impact on City Resources**

The City has available resources and funds to review and respond to documents related to this Project. No additional funds or resources are required at this time.

#### **Environmental Review**

The County of Santa Clara is the lead agency for the Project. The City's action to submit a comment letter on the DEIR does not require environmental clearance.

#### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

**Attachments**

- A. November 29, 2017 draft City of Menlo Park comment letter
- B. 2018 General Use Permit Application – Hyperlink:  
<https://www.sccgov.org/sites/dpd/Programs/Stanford/Pages/CurrentProjects.aspx>
- C. Draft Environmental Impact Report – Hyperlink:  
[https://www.sccgov.org/sites/dpd/Programs/Stanford/Pages/GUP2018\\_CEQA.aspx](https://www.sccgov.org/sites/dpd/Programs/Stanford/Pages/GUP2018_CEQA.aspx)
- D. Map of the proposed development potential under the 2018 GUP
- E. Request for 60-day extension to the public review period to February 2018

Report prepared by:

Nicole H. Nagaya, Assistant Public Works Director

Report reviewed by:

Justin Murphy, Public Works Director





November 29, 2017

Mr. David Rader  
County of Santa Clara  
Department of Planning and Development  
County Government Center  
70 West Hedding St.  
San Jose, CA 95110

**RE: Stanford University “2018 General Use Permit,” Draft EIR Comments**

Dear Mr. Rader,

Please find attached the City of Menlo Park’s comments on the Draft Environmental Impact Report (DEIR) for the Stanford University “2018 General Use Permit” (GUP) Project (File #: 7165-16P-16GP-16Z-16EIR).

The attached comments highlight several significant deficiencies in the Draft EIR that must be addressed in a recirculated Draft EIR with sufficient mitigation measures to mitigate any impacts identified before the County considering the 2018 GUP for approvals. The City appreciates the opportunity to comment on the proposed project. Please contact Assistant Public Works Director Nikki Nagaya at 650-330-6770 or [nhnagaya@menlopark.org](mailto:nhnagaya@menlopark.org) with any questions.

Sincerely,

Kirsten Keith  
Mayor

Enclosure

### Project Description Concerns and Questions

1. Stanford is seeking “flexibility with accountability.” The application and DEIR indicate that the total amount of academic square footage may take many forms, from classroom buildings to art galleries to energy facilities. Similarly, the anticipated housing units/beds will include a range of products from undergraduate dormitories to single-family homes for faculty. These different uses will have disparate impacts. Without specificity as to the amount, location and intensity of the various uses, there are no assurances that the impacts have been adequately assessed in the DEIR. Further, there is no mention in the DEIR that further study will be conducted to determine whether what does eventually get built is within the parameters of the DEIR or creates additional impacts that require additional mitigation. This seems critically important for a document that is anticipated to govern development for the next approximately 17 years in an area that is seeing rapid transition in local and regional conditions and circumstances. The City requests that clear accounting of the proposed uses and location of such uses be documented, and no changes to the provided allotments of developable area be allowed without a full assessment of any further environmental impacts. Further, as evidenced by the Center for Academic Medicine project application, any transfer of development request needs to include explicit consultation with and notice to the City of Menlo Park, particularly in the area of traffic concerns.
2. The 2018 GUP should preserve the Academic Growth Boundary and the extra increment of foothill protections (i.e., the 4/5ths vote for development west of Junipero Serra Boulevard) in order to ensure ongoing open space and conservation efforts are recognized as a serious concern.
3. The maximum build out of the Stanford campus should be identified, defined and evaluated in the 2018 GUP and DEIR. Such definition was required during the 2000 GUP development, as a condition of approval, but has not yet be identified or imposed here. This is important to provide the community and neighboring jurisdictions a clear picture of when growth limits would be reached; further, the current process provides no assurances to the maximum extent of growth and development on the campus.
4. Stanford will be increasing the population of students, faculty, staff and other workers from 41,217 in 2018 to 50,827 by 2035. However, it is not clear that these numbers reflect the full picture and include families of students and faculty, deliveries, consultants, contractors and various visitors who travel to and from Stanford. The assumptions should be clearly outlined in the DEIR.
5. The 2018 GUP and DEIR should evaluate changes in the Project Description, or as mitigation measures to:
  - a. Prohibit an increase in net new parking spaces
  - b. Provide a direct roadway connection from Campus Drive West to I-280 between Page Mill Road and Alpine Road without a connection at Junipero Serra Boulevard, or at encourage traffic to use Page Mill Road over Alpine Road since there are limited residences along Page

City of Menlo Park  
Stanford University “2018 General Use Permit,” Draft EIR Comments

Mill frontage

- c. Add locations for traffic monitoring at gateways to Stanford Land beyond the cordon locations that are specific to unincorporated Santa Clara County (see comment 6.h.ii. below)
- d. Require trip credits to have some spatial or geographic relevance based on Gateways and cordon limits around the Stanford campus

## Transportation

6. The transportation analysis shows several deficiencies with respect to<sup>1</sup>:

- a. Existing congested conditions are not reflected in the intersection analysis.

The existing conditions analysis does not reflect congested conditions on the Bayfront Expressway, Willow Road, University Avenue, El Camino Real and Sand Hill Road corridors as of the time the existing counts were taken in 2016. The reported results at the following locations do not reflect field observed conditions:

- i. Bayfront Expressway/University Avenue
- ii. Bayfront Expressway/Willow Road
- iii. Willow Road intersections
- iv. Sand Hill Road/Santa Cruz Avenue-Alpine Road

The existing congested conditions on the corridors and intersections listed above are not taken into account by isolated intersection analysis. As summarized in the City of Menlo Park’s General Plan (ConnectMenlo) Draft Environmental Impact Report published in 2016, isolated intersection analysis does not account for the queue spillback between intersections on the approaches to the Dumbarton Bridge, including those on Bayfront Expressway, Willow Road and University Avenue. The TRAFFIX 8.0 software that was used for the analysis is not sufficient to reflect the existing or future (2018 or 2035) congestion levels. The TIA (Section 4.8, page 94-95) describes the observed queues and congested conditions on El Camino Real and Sand Hill Road, but does not use this information to validate the calculated existing levels of service (Figure 4-2 on page 54 and Table 4-1 on pages 55-60) on the corridors. Field observed conditions are not described on Willow Road and the Dumbarton Bridge approaches. This level of service calculations need to be updated in order to present an accurate existing scenario to assess impacts of the 2018 GUP. Otherwise, potential impacts are underestimated. The Draft EIR should be updated and recirculated with corrected information that mitigates all additional impacts.

- b. Existing congested conditions are not reflected in the freeway and ramp analysis.

Similarly, the freeway ramp analysis at the U.S. 101/Willow Road interchange and the I-280/Sand Hill Road interchange do not reflect existing congested conditions, and therefore the

<sup>1</sup> All page number references within this comment point to the Transportation Impact Analysis, Part 2 in Appendix TIA of the Draft EIR. Similar comments apply to the same content shown in the Draft EIR.

City of Menlo Park  
Stanford University “2018 General Use Permit,” Draft EIR Comments

volume-to-capacity analysis conducted does not take into account the unserved peak period demand and queue spillback. Analysis based on these existing results therefore underestimates potential impacts of the 2018 GUP. The analysis must be updated and the Draft EIR recirculated with the corrected information, including appropriate mitigation for all additional impacts.

- c. The No Net New Commute Trips mitigation program does not fully mitigate transportation impacts and must be modified.

The 2018 GUP application materials and Draft EIR describe Stanford’s continued participation in the No Net New Commute Trips mitigation program. The program limits peak hour, peak direction vehicular trips associated with Stanford University. However, this program is fundamentally flawed and does not fully mitigate transportation impacts for several reasons:

- i. Congested conditions in the region are no longer limited to a single morning and evening peak hour. The monitoring program should be expanded to capture the hours of congestion across the peak periods, at a minimum from 7:00–9:00 a.m. and 4:00–7:00 p.m., since the program encourages peak spreading to shoulder and off-peak hours. Daily trip limits should also be considered to reduce potential air quality and greenhouse gas impacts.
- ii. While traffic flows still see some directionality, reverse peak direction patterns are increasing and even reverse direction trips in the peak hours can contribute to congestion.

The proposed 2018 GUP is estimated to add 428 AM and 600 PM peak hour trips in the reverse direction. This represents a significant proportion of the proposed growth in traffic, representing 36 percent of morning and 44 percent of evening peak hour traffic. The proposed analysis does not isolate the potential impacts of these trips, and they are not mitigated by the No Net New Commute Trips mitigation program, which only limits the peak direction trips. Therefore, all reverse peak trips are added to the roadway network, with undetermined impacts and are not currently mitigated.

The City requests that an analysis of the reverse direction trips be conducted and appropriate mitigation measures be identified. Alternatively, the mitigation program could be expanded to limit any new impacts from reverse commute trips by including them in the No Net New Trips program, and no growth in such strips should be allowed over existing conditions. This analysis should be prepared and the DEIR recirculated with this significant new information.

- iii. Monitoring of the program is infrequent and does not assure neighboring jurisdictions that the program achieves its goals on a typical basis. Monitoring occurs twice per year, and while conducted in typical traffic conditions, this limited frequency allows the potential for ongoing violations. The City requests the County modify the monitoring program to provide consistent, daily monitoring. Such monitoring and enforcement is conducted by the City for the Facebook Campus site in Menlo Park, and provides assurances that the trip limits are met on a daily basis throughout the year. This increased frequency is enabled more readily,

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since under the current proposal, Stanford and the County propose to use automated technology to conduct the counts in the future. The City requests that no new development be allowed beyond the 2000 GUP until such automated equipment and increased monitoring is in place.

- iv. Chapter 8 of the TIA details the tiered mitigation program steps if Stanford does not achieve the No Net New Commute Trips goal. However, as described in Section 8.1.1.3 through 8.1.1.5, Stanford would fund infrastructure changes and programs to reduce vehicle trips in the vicinity of the campus if the No Net New Commute Trip goal is not successful. This shifts the burden of mitigation to neighboring cities, when the mitigation is necessitated by Stanford’s non-compliance with the mitigation measure. Stanford should instead assume responsibility, in collaboration with neighboring agencies to design and construct physical infrastructure and provide resources to help implement necessary programs to reduce trips as identified in these sections. If Stanford does not achieve the No Net New Trips goals, with revisions as requested above, the City requests that a contribution toward the Middle Avenue Pedestrian/Bicycle Crossing, Dumbarton Rail Corridor and Sand Hill Road-Santa Cruz Avenue-Alameda de las Pulgas-Alpine Road corridor improvements be prioritized for mitigation.
- v. Section 8.1.1.5 of Chapter 8 of the TIA further outlines the payment methodology to determine Stanford’s fair share of the intersection improvements on a per trip basis. This section outlines that the proposed payments would be on an annual basis, and since the 2018 GUP is projected to carry development through 2035 (17 years), the total contribution toward all intersection improvements would be divided by 17. This proposed methodology does not mitigate Stanford’s contribution toward impacts in the City, and other neighboring agencies, as these funds would not accrue to cover the construction cost of the necessary mitigation – which since a Project level impact (see comment 6.d. below) – is necessary to reduce the Project’s impact to a less-than-significant level. The proposed methods also do not account for escalation in construction costs over the life of the proposed 2018 GUP.
- d. Project level impacts identified under Background Conditions should be fully mitigated.

The DEIR and TIA identify mitigation measures for Background plus Project conditions as fair-share payment toward potential physical improvements. CEQA, in sections PRC 20112(a) & 14 CCR 15126.4, requires that project-level impacts be mitigated. The Project should be responsible for construction of mitigation measures that result from Project-level impacts.

- e. Comments on specific mitigation measures
  - i. I-280 Northbound Ramp/Sand Hill Road. A fair share contribution is not adequate. Bike lane is not protected, as stated on page 172.
  - ii. El Camino Real intersections. A fair share contribution is not adequate and proposed

City of Menlo Park  
Stanford University “2018 General Use Permit,” Draft EIR Comments

improvements conflict with recent City direction and Middle Plaza at 500 ECR DEIR recommendations.

f. Bicycle and pedestrian impact evaluation and proposed mitigation

While the effort to assess mitigation measures impacts on multimodal travel, in addition to identifying vehicular improvements to mitigate traffic impacts, is appreciated, this assessment does not address bicycle and pedestrian demand and facility needs because of this Project. Key access routes to the Campus were recently evaluated as part of the Bicycle Access Plan, and gaps in the existing networks should be evaluated and mitigated appropriately. Similar efforts for the pedestrian network should also be completed. The City requested such an analysis in its NOP letter, an analysis of a 5-mile commute shed around the proposed General Use Permit development area. As noted in the permit application, Stanford owns land throughout the mid-Peninsula, including proposed development sites in Menlo Park and an approved project site in Redwood City. The City requested that the DEIR assess walking, bicycling, and traffic conditions across Stanford properties located across these multiple jurisdictions. This comment on the NOP was not addressed and the DEIR should be revised to include such an analysis and recirculated.

Further, Section 8.4.2 on page 218 discloses that the Project does not conflict with a planned facility or local agency policy. The City’s El Camino Real/Downtown Specific Plan, and follow-up work through the El Camino Real Corridor Study, identifies potential bicycle lanes on El Camino Real. The proposed mitigation conflicts with these plans. This is not addressed in the DEIR; the analysis should be revised and DEIR recirculated with identification of appropriate mitigation.

g. Neighborhood street impacts are not fully addressed

Neighborhood street impacts (Section 8.3 on page 199) in the Willows and Belle Haven neighborhoods in Menlo Park are not addressed. The Crescent Park neighborhood in Palo Alto was evaluated, and cut-through traffic from that area directly impacts the Willows, across the Pope-Chaucer Bridge over San Francisquito Creek. Additional traffic added to Bayfront Expressway, Willow Road and University Avenue will also lead to additional cut-through in the Belle Haven neighborhood as commuters seek out alternative routes. Both of these should be addressed. The City of Menlo Park has adopted standards and thresholds of significance that should be used to evaluate increases in daily roadway traffic volumes on local streets in lieu of the TIRE Indices Analyses prepared following the City of Palo Alto standards. Based on Table 8-5 on page 217, cut-through volumes on Lytton Avenue and Hamilton Avenue near Pope-Chaucer are between 76 and 145 daily trips. These increases in traffic through the Willows would be considered significant following City of Menlo Park impact standards, and need to be evaluated and mitigated accordingly in a recirculated DEIR.

h. The DEIR does not address the NOP comments the City provided as listed below.

i. Stanford is requesting continuation of a program to provide trip credit for off-campus

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transportation infrastructure improvements within the Cordon Credit Area, which includes properties, owned by Stanford outside of Santa Clara County, including 500 El Camino Real and 2131 Sand Hill Road. The City requests that any required measures to reduce or mitigate impacts from the Middle Plaza at 500 El Camino Real project recently approved or 2131 Sand Hill Road project currently under review are not eligible for credits under the General Use Permit program, since this would result in double-counting the benefits of such measures.

- ii. The Draft EIR did not address how vehicle trips from the proposed development areas outside the traffic cordon area, including Quarry, Lathrop and San Juan in particular, will be addressed by the No Net New Commute Trips condition. The City requested the County modify the cordon area to incorporate these zones with additional proposed development.

## Housing

7. The proposed \$20 per square foot (plus consumer price index adjustment inflator) affordable housing impact fee is not adequate to mitigate the increased demand for affordable housing by the proposed 2018 GUP. The rate of housing construction costs has generally outpaced the consumer price index, so the fee as proposed does not keep pace with rising costs and will not allow construction of the identified housing unit demand within Menlo Park.
8. In addition, when Stanford University purchases or develops property for the provision of faculty and staff housing in adjacent jurisdictions, including both the City of Menlo Park and local school districts, the City and school districts lose property tax revenues from the property in perpetuity, since Stanford does not pay property taxes on lands used to support the University. This creates a twofold negative impact to the City and other affected agencies, since the City loses revenues and has to continue to provide the municipal services necessitated by the residential properties. It also further increases the cost of housing in the region, as the market-rate housing supply is decreased by such actions. Requiring Stanford to provide all housing on campus will avoid this impact.
9. As availability of affordable housing continues to be a regional concern, the City requests that the County maximize additional benefits for housing supply for faculty, staff and students, as well as for workers that may not be employed directly by Stanford, but work within the General Use Permit area. Specifically, the City requests that the full housing burden generated by the 2018 GUP be absorbed on the Stanford Campus, within the 2018 GUP development area. Further, the City requests the County retain the 6-mile radius for use of affordable housing fees, since the impacts are most concentrated locally near the Stanford University campus. The provision of such fees is one of the few strategies that can be used to help offset the housing impacts identified as a result of the 2018 GUP and should be maintained.
10. The DEIR acknowledges that Stanford's growth pursuant to the 2018 GUP will require housing in adjacent jurisdictions such as Menlo Park. The DEIR anticipates 153 new housing units in Menlo Park. Since the growth with the 2018 General Use Permit is anticipated to be at the same rate as

City of Menlo Park  
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the 2000 General Use Permit, the anticipated units in Menlo Park may be under estimated because 215 units associated with the 2000 General Use Permit have been approved for construction in Menlo Park at the Middle Plaza at 500 El Camino Real site.

### **Air Quality and Noise**

11. Given the comments regarding peak spreading, the air quality and greenhouse gas analysis should be reevaluated to determine the continued accuracy of the conclusions relative to reductions in pollutants, especially since a full 1/3 of emissions are anticipated from transportation sources.
12. Stanford is proposing to construct up to 40,000 net new square feet of childcare centers and other services on campus. However, in the chapter regarding air quality (see Figure 5.2-1), the DEIR does not consider on-site sensitive receptors like the new proposed day care centers and should be revised to reflect this change.
13. Noise impacts on the Sand Hill Road corridor should be mitigated near residential uses.

### **Hydrology/Water Quality**

14. The DEIR did not adequately respond to the City request that Stanford continue to work with the City of Menlo Park and other jurisdictions to develop a specific proposal for the detention of floodwaters on Stanford land that will result in a significant and measurable reduction in floodwaters reaching the floodplain areas within Menlo Park and neighboring jurisdictions. The City requests that existing and proposed runoff calculations from the project area for both the 10-year and 100-year storm event be provided for the City to review and that the impact be evaluated in a revised and recirculated DEIR. In addition, the City requests that any plans that show existing and proposed impervious improvements and potential alteration of drainage patterns be provided. Combined with the improvements downstream within San Francisquito Creek, the detention on Stanford land shall result in containment of flows from the 10-year and 100-year storm events within the detention site(s) and within the Creek to the extent feasible. The detention plan shall be designed and implemented by Stanford within a specific time line that is relative to the proposed development.
15. In addition, the City requests that the proposed General Use Permit include measures that either mitigate for increase flows and/or create no net increase in stormwater runoff to the neighboring downstream communities that are located within the San Francisquito Creek Watershed Area.

### **Other Issues**

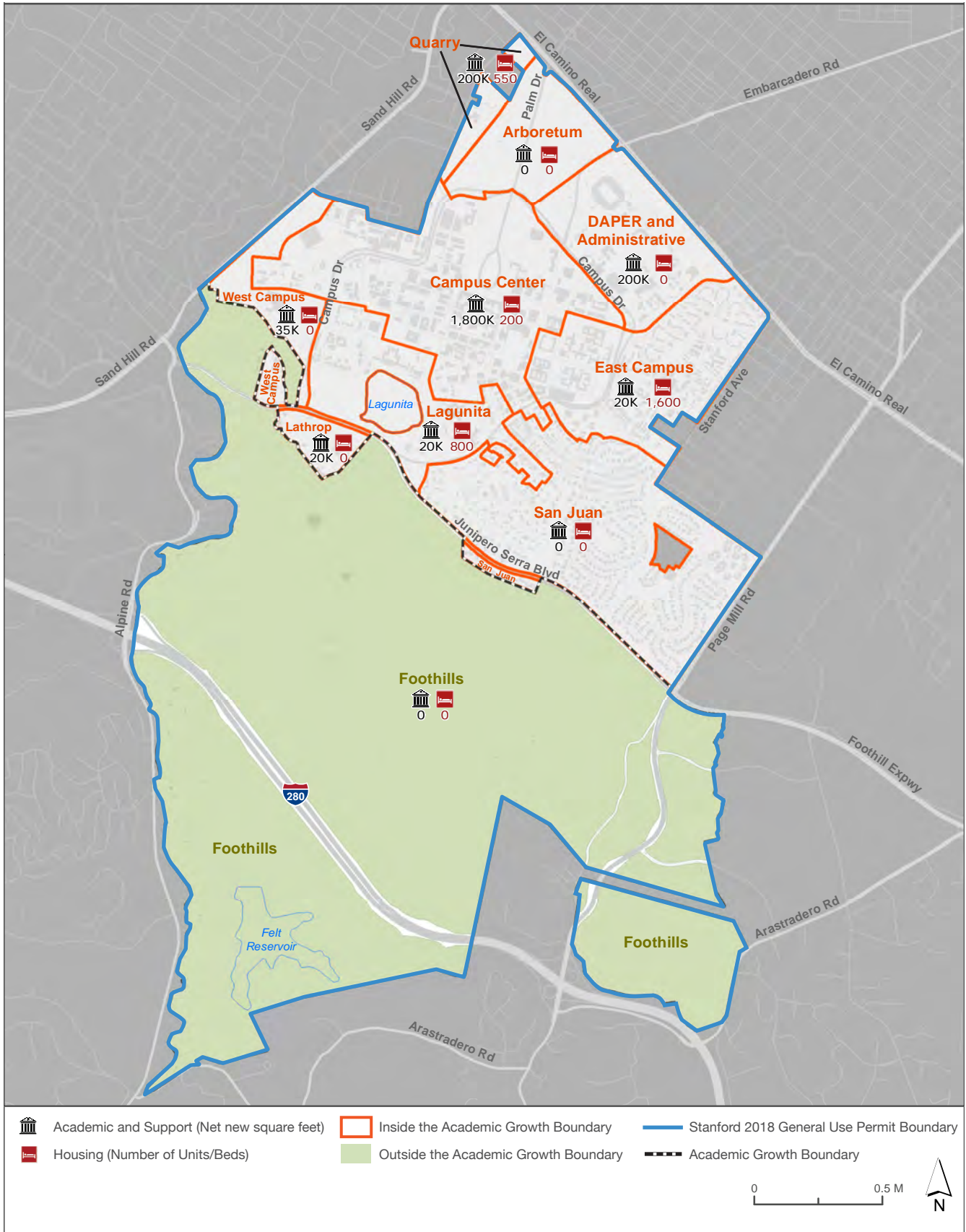
16. The DEIR dismisses the impact of new students, faculty and staff on neighboring library facilities positing that Stanford is an academic university with libraries and visiting a local library is not necessary. However, there are many reasons to visit a library--a college student's reason may



City of Menlo Park  
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be different from a faculty member who has a toddler and wishes to participate in story time at the library. If Stanford does not provide such services at its libraries, it is likely that there will be more visits to libraries in surrounding jurisdictions and potential impacts. The same is true of the impacts on parks and other community based recreation programs.

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SOURCE: Stanford LBRE LUEP; ESA

Stanford 2018 General Use Permit . 160531

**Figure 3-8**  
Development Districts under 2018 General Use Permit, and Proposed Distribution of Academic, Academic Support and Housing

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November 21, 2017

Mr. Kirk Girard, Director of Planning and Development  
County of Santa Clara  
Department of Planning and Development  
County Government Center  
70 W. Hedding St.  
San Jose CA 95110

**RE: 60-Day Extension – General Use Permit (GUP) Draft EIR Public Comment Period**

Dear Mr. Girard:

Thank you for your presentation last week in Menlo Park regarding the Draft Environmental Impact Report for the 2018 Stanford General Use Permit. The City of Menlo Park (City) greatly appreciates all of the information that was shared to gain a better understanding of the 2018 GUP Draft EIR and its potential impacts on the City and its neighbors.

In order to allow the City adequate time to review the Draft EIR and to gather additional community input, we are requesting a 60-day extension of the public comment period to early February 2018. Please confirm receipt of this request by November 29<sup>th</sup> as the City Council is scheduled to discuss a comment letter on this matter that evening and staff will want to provide an update on this extension request.

Thank you for your attention to this issue. Please contact me at 650-330-6709 or [memuenzer@menlopark.org](mailto:memuenzer@menlopark.org) should you have any questions.

Sincerely,

Mark E. Muenzer  
Assistant Community Development Director, Planning

Cc: Menlo Park City Council  
Alex McIntyre, City Manager

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## STAFF REPORT

### City Council

Meeting Date: 11/29/2017

Staff Report Number: 17-290-CC

Informational Item: Update on bus shelter installation in Belle Haven

### Recommendation

This is an informational item and does not require City Council action. This report is the same as that transmitted to the City Council November 14, 2017.

### Policy Issues

As part of the City Council Work Plan for 2017 (Item No. 67), staff is pursuing installation of new bus shelters in the Belle Haven neighborhood of Menlo Park. The Circulation Element of the General Plan includes policies that support and encourage the use of public transit. The installation of bus shelters would support these policies.

### Background

Bus shelters are an amenity provided at major transit stops, providing cover from sun or weather, seating and information about the transit system. Typically, bus shelter and transit stop amenities such as benches, trash cans, maps, and signs are provided by the transit agency that provides the service. Within Menlo Park, public transit service is provided by SamTrans and Alameda County (AC) Transit, which operates the Dumbarton Express bus service.

In 2006, SamTrans, through its contract with Outfront Media, initiated a program to replace existing bus shelters throughout the County with a new design. Outfront Media currently replaces and maintains shelters at no-cost to SamTrans or local agencies by allowing advertisements to be posted within the shelter. The revenue generated by advertisements fully covers the capital cost of installation as well as ongoing maintenance for the shelter.

SamTrans' bus shelter policy states that shelters are considered for installation based on the following criteria:

- Stops serving more than 200 passengers each day
- 75 percent of shelters shall be located in census tracts on routes associated with urbanized areas
- Distribution of shelters countywide should match the distribution of minority census tracts
- Locations for shelters with advertisements are chosen by the vendor based on the visibility and traffic

### Analysis

On March 15, October 25 and December 6, 2016, staff provided updates to the Council on the status of bus shelter installation. The December 6, 2016, update outlined potential locations for bus shelter installation, including Marketplace Park, Onetta Harris Community Center that serves SamTrans routes. City crews completed site preparation work at Marketplace Park in December 2016 and January 2017 to ready the site

for installation. Ordering, production and delivery of the bus shelter took several months, and the shelter at Market Place was installed July 22, 2017.

Staff also ordered two additional shelters in mid-July 2017 directly from the same vendor that supplies the SamTrans shelters, Tolar Manufacturing. As noted in previous staff reports, ordering, production and delivery of the shelter typically takes three to four months. Staff was originally preparing for delivery at the three-month mark in mid-October, based on Tolar's best estimate for actual delivery date at the time the shelters were ordered. Staff recently checked with the manufacturer to ensure site preparation work was completed on time, and the estimated delivery date is now closer to the four-month range, with delivery in late November 2017. This longer lead time is due to the manufacturing taking longer than expected. The current estimated delivery timeline represents an approximate six-week delay from staff's original anticipated installation timeline and two-week delay from the range of Tolar's original estimate. Staff is continuing to emphasize to Tolar the importance of the shelter installation to install them before the winter rainy season approaching, and will continue to work with Tolar to expedite the delivery timeline as much as possible.

During the last few weeks, City staff has also worked to find an improved bus shelter installation location that would minimize the relocation of parking and impacts to the drop off area at the Belle Haven Pool. The previous and current proposed locations are shown in Attachment A. The Onetta Harris Community Center is the beginning of the SamTrans Route 281, and as such, the buses often enter the OHCC parking area, turn around and queue on Terminal Avenue facing Del Norte Street near Beechwood School while drivers take a short break between runs. The prior proposed bus shelter location would have placed the shelter in front of the Pool, and bus riders waiting at the shelter would have had to walk across the pool entrance to get on the bus when it starts the route. This is less than ideal, especially in rainy or inclement weather conditions. A best practice is to locate the shelter closer to the actual bus stop, and as such, staff has worked collaboratively with Beechwood School representatives to identify a bus shelter location closer to the current SamTrans Route 281 stop in front of Beechwood School at the intersection of Terminal Avenue and Del Norte Street. The shelter would be placed behind the existing sidewalk in order to keep required pedestrian and ADA access along the sidewalk clear. In the coming weeks, City and contractor crews will work to complete site preparation work to prepare for installation.

Staff will also continue to coordinate with AC Transit, which operates Dumbarton Express bus service on Willow Road, to determine feasibility of shelters at stops on Willow Road at Newbridge Street, Ivy Drive and/or Hamilton Avenue. Additional coordination with Caltrans may also be required depending on the specific location.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

A. Proposed Bus Shelter Location

Report prepared by:

Nicole H. Nagaya, Assistant Public Works Director



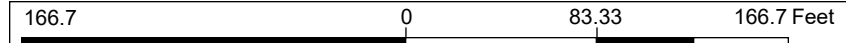


# Proposed Bus Shelter Location



- Legend**
- Public Facilities
  - School Names
  - Parks
  - SF Bay and Wetlands
  - Creek Names
  - Street Names Large Scale
  - Sphere Of Influence
  - City Limits
  - Pedestrian Overcrossing
  - Railroad
  - Bridge Culvert
  - Streets
  - Major Streets
  - Paper
  - Private Street
  - Parking Plazas
  - Golf Course
  - Parking
  - Path
  - Driving Range
  - Fairway
  - Green
  - Sand Trap
  - Tee
  - Building
  - Tennis Court
  - Water
  - Golf Course
  - Travel Ways
  - Road
  - Landscape
  - Median
  - Private
  - Railroad
  - Paper
  - Parks
  - Schools
  - Public Facilities

1: 1,000



NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
City of Menlo Park GIS

This map is for reference purposes only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. The City of Menlo Park and its staff shall not be held responsible for errors or omissions. Please contact City staff for the most current information.

Notes

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## STAFF REPORT

### City Council

Meeting Date: 11/29/2017

Staff Report Number: 17-289-CC

Informational Item: **Update on Willow Road and U.S. 101 interchange construction**

### Recommendation

This is an informational item and does not require City Council action.

### Policy Issues

The Willow Road Interchange Project was included in the City's 2012-13 Capital Improvement Program and is Item #45 on the 2017 City Council Work Plan. The project is currently in construction and this report is intended to keep the City Council updated on the progress following temporary traffic signal activation that occurred November 6 and 7, 2017, and should be in place for approximately six months.

### Background

Caltrans is modifying the interchange at Willow Road and U.S. 101 from its former "full cloverleaf" style to a "partial cloverleaf" style similar to the Marsh Road and U.S. 101 interchange. This will eliminate the short merge weaves on both Willow Road and the freeway. The project is replacing the existing interchange with a new, wider bridge; adding sidewalks, bicycle lanes and separated bicycle lanes on both sides of Willow Road; and adding two signalized intersections. Caltrans awarded the construction contract in February 2017 and construction began in May 2017. Construction is expected to last approximately two years.

Before the beginning of the Caltrans construction, PG&E performed utility relocation work in preparation for the project on electric and gas lines in the Bay Road and Van Buren Road area. That work was completed in September 2017 and Bay Road and Van Buren Road are both completely open to traffic at all times.

The Caltrans construction of the project is being performed in four stages. Stage 1 was completed at the end of October.

Items completed in Stage 1 include:

- Shifting roads and ramps to temporary locations
- Installing temporary lighting
- Beginning demolition of existing bridge

Stage 2 began in early November 2017 and includes:

- Operation of two temporary traffic signals on Willow Road at the northbound and southbound ramps
- Change in ramp locations (all on- and off-ramps for northbound 101 are on the north side of Willow Road, all on- and off-ramps for southbound 101 are on the south side of Willow Road – the configuration is similar to the southbound off-ramps at the University Avenue and U.S. 101 interchange)
- Construction of new sound walls on all four quadrants of the interchange

- Continuation of demolition of outside of bridge structure
- Intermittent lane and shoulder closures

Stage 3 is anticipated to begin spring 2018 and will include tasks such as completion of bridge construction, completion of new ramp location installations, pavement restoration and street lighting installation.

During Stage 4, the contractor will install all final signing, striping and traffic signals to prepare the interchange for opening the final structure.

## Analysis

Upon activation of the new temporary traffic signals for the U.S. 101 northbound and southbound ramps on November 6 and 7, 2017, significant traffic impacts were observed west of U.S. 101, in the Willows neighborhood in particular. On November 8, an equipment failure of the new signals further exacerbated the backups and neighborhood impacts. Due to the observed increase in neighborhood traffic, the City Council added an urgent item to the November 14, 2017, agenda to discuss immediate measures to alleviate the traffic impacts.

At this meeting, the City Council directed staff to install “No Thru Traffic” signs throughout the neighborhood to address the additional traffic that the neighborhood is experiencing. The “No Thru Traffic” signs are intended to discourage cut-through traffic.

The next day, November 15, 2017, City staff installed a number of yellow advisory signs that were already on hand at key entry points the neighborhood as follows:

- Woodland Avenue at Middlefield Road
- Woodland Avenue at the Pope-Chaucer Bridge
- Baywood Avenue at Woodland Avenue
- Blackburn Avenue at Willow Road
- Menalto Avenue at Chester Street (to reflect no access to Willow Road via Menalto Avenue once beyond Chester Street)

White regulatory signs will be installed to replace the yellow advisory signs during the week of November 27, 2017. Staff is continuing to explore additional sign locations and respond to concerns from neighborhood residents as feedback is received. Although the new signs will be regulatory instead of advisory, the signs do not appear to be enforceable as described in the March 28, 2017, City Council staff report #17-071-CC (Attachment A). In addition, staff is coordinating with WAZE in an attempt to incorporate these traffic restrictions into their program.

In addition to these signs, Caltrans’ contractor added new pavement paint at the interchange November 17, 2017, and additional signs have been ordered and will be installed as soon as possible to help clarify the temporary changes and better direct traffic during construction.

Caltrans and the City are coordinating the traffic signals along Willow Road from Durham Street to Newbridge Street so that the traffic can flow through the interchange more smoothly. Traffic signal changes are expected to be in place by Wednesday, November 22, 2017, and will continue to be monitored and adjusted as necessary. City staff is also pursuing grant funds to coordinate further the signals between Middlefield Road and Bayfront Expressway, in collaboration with Caltrans, using an adaptive signal timing

system. The grant application was submitted November 20, 2017, following the City Council's November 7, 2017, adoption of a resolution of support.

Electronic signs will also be added at Middlefield Road near Willow Road, along Bayfront Expressway and on northbound US 101 to advise drivers of the construction and encourage them to use alternate routes. In addition, City staff placed two electronic signs in addition to the Caltrans placed electronic signs, on Willow Road to advise drivers of the new traffic signals at the interchange. Staff intends to relocate the two City-owned signs to the Willows neighborhood to reiterate the message of "No Thru Traffic."

City staff is in the process of looking at other options to reduce the neighborhood traffic impacts for City Council to consider at its upcoming December 5, 2017, meeting. Items being explored include potential turn restrictions for predominate cut-through routes in the evening peak commute period. Staff will use previously completed studies from which to base recommendations and develop options, but no new detailed evaluations or studies will be completed due to the limited time before the December 5, 2017, meeting.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Additional outreach to the community is being done through a variety of methods. Caltrans has delivered notices to local residents about upcoming construction activities and will continue to do so for major construction activities. City staff is utilizing various City outreach methods including

- City Council Weekly Digest ([menlopark.org/digestarchive](http://menlopark.org/digestarchive))
- Weekly Construction News Updates ([menlopark.org/constructionnews](http://menlopark.org/constructionnews))
- Emails to businesses
- Emails to the Police Department and Menlo Park Fire Protection District
- Project webpage updates ([menlopark.org/willow101interchange](http://menlopark.org/willow101interchange))
- Nextdoor posts
- Attendance at neighborhood public meetings

### **Attachments**

A. March 28, 2017, Neighborhood Control of Cut-through Traffic Staff Report (Staff Report #17-071-CC)

Report prepared by:  
Nicole H. Nagaya, Assistant Public Works Director

Report reviewed by:  
Justin Murphy, Public Works Director

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## STAFF REPORT

### City Council

Meeting Date: 3/28/2017  
Staff Report Number: 17-071-CC

Informational Item: Neighborhood control of cut through traffic

### Recommendation

This is an informational item and no Council action is required.

### Policy Issues

Pursuant to City Council request, the Police Department with the assistance of the Transportation Division and City Attorney, has studied restricting turning movements to “residents only” in an effort to minimize “cut through” traffic in neighborhoods.

### Background

For the past decade, the issue of “cut through traffic” (motorists using residential streets to bypass congestion on arterial and major roads) has been a chief complaint of many residents within the City of Menlo Park. With the advent of traffic defeating mobile applications, the issue has steadily increased and has generated more complaints. A suggestion was made by Council that the City could mitigate this issue by having turns into residential neighborhoods restricted to “residents only” either permanently or during certain hours. Council directed the Police Department and Transportation Division to investigate the legality and enforceability of this possible solution.

### Analysis

In researching this possible solution, the California Vehicle Code (CVC) and the California Streets and Highway Code (CSHC) were consulted. Section 21100 CVC allows local authorities to regulate traffic by means of officers and official traffic control devices by way of local ordinances, giving municipalities the ability to create specific traffic regulations within their city limits. Section 21101.6 CVC on the other hand, prohibits local jurisdictions from placing gates or “other devices” to restrict access to a street to “certain members of the public...while permitting others unrestricted access to the street”. This Vehicle Code section was enacted specifically due to a court case from 1979 (City of Lafayette v. Contra Costa County - 91 Cal. App 3d 749).

The City Attorney’s Office was consulted for their opinion of this court decision and the relevant provisions of the CVC and the CSHC and they confirmed that this decision and Section 21101.6 CVC prohibit local jurisdictions from restricting access to publicly funded streets to “residents only”. The case and section provide that a street can be closed to all motorists or no motorists, making the above suggested remedy unlawful.

It should be noted that during discussions, City Council members made mention of the method of enforcing “resident traffic only” used by Atherton during the closure of Marsh Road during in the summer of 2016.

Section 21370 of the California Vehicle Code and California Streets and Highway Codes Section 124 and 125 allow roadway traffic control and restrictions to be put into place for construction zones, and Atherton's installation was in response to a temporary condition caused by a significant roadway closure over a period of approximately six to eight weeks.

### **Next Steps**

In addition to directing staff to explore this potential solution to neighborhood cut through traffic, Council also provided direction through the 2017 Work Plan (item 52) to develop recommendations through for Willows Neighborhood Complete Streets (<http://menlopark.org/DocumentCenter/View/13206>). Further, as a transportation mitigation requirement for the Facebook Campus Expansion Project approved by the Council in late 2016, a traffic calming plan for the Belle Haven neighborhood will also be initiated this year. Both of these plans will provide a mechanism to develop neighborhood consensus regarding potential changes to better address cut through traffic.

### **Public Notice**

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

There are no attachments.

Report prepared by:  
Dave Bertini, Commander